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TEXAS COMMISSION ON ENVIRONMENTAL QUALITY

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TEXAS COMMISSION ON ENVIRONMENTAL QUALITY

Protecting Texas by Reducing and Preventing Pollution

May 23, 2008

LaDonna Castañuela, Chief Clerk
TCEQ Office of Chief Clerk MC-105
P.O. Box 13087
Austin, Texas 78711-3087

Re: US Department of Energy and BWXT Pantex, L.L.C.
TCEQ Permit No. WQ0002296000
Docket No. 2008-0261-IWD
Executive Director's Response to Requests for Reconsideration

Dear Ms. Castañuela:

I am enclosing for filing with the Texas Commission on Environmental Quality an original and 11 copies of the "*Executive Director's Response to Requests for Reconsideration*" regarding US Department of Energy and BWXT Pantex, L.L.C. Permit No. WQ0002296000.

Please file stamp these documents and return one to Marc Friberg, Attorney, Environmental Law Division, MC 173. If you have any questions, please do not hesitate to contact me at (512) 239-0611.

Sincerely,

Marc Friberg
Staff Attorney
Environmental Law Division

TEXAS
COMMISSION
ON ENVIRONMENTAL
QUALITY

TCEQ Docket Number 2008-0261-IWD

2008 MAY 23 PM 1:38
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Application by UNITED STATES DEPARTMENT OF ENERGY AND BWXT PANTEX, L.L.C. for PROPOSED TCEQ Permit No. WQ0002296000	§ § § §	**Before the TEXAS COMMISSION ON ENVIRONMENTAL QUALITY**

EXECUTIVE DIRECTOR'S RESPONSE TO REQUESTS FOR RECONSIDERATION

The Executive Director of the Texas Commission on Environmental Quality (Commission or TCEQ) files this Response to the Requests for Reconsideration filed by **Mavis Belisle, Danny** and **Bernice Detten, Jeff Detten, May Hochstein, Dana Koetting, Dale Livingston,** and **Jim Murphy** on the major amendment of Texas Pollutant Discharge Elimination System (TPDES) Permit No. WQ0002296000 to now become TCEQ Permit No. WQ0002296000 by the United States Department of Energy and BWXT Pantex, L.L.C. The Executive Director respectfully recommends that the Requests for Reconsideration be denied.

Attached for Commission consideration are the following:
Attachment A - Draft Permit & Technical Summary
Attachment B - Executive Director's Response To Public Comments
Attachment C - Compliance History
Attachment D - Mailing List

I. BACKGROUND

Description of Facility

The United States Department of Energy and BWXT Pantex, L.L.C., c/o National Nuclear Security Administration, P.O. Box 30030, Amarillo, Texas 79120-0030, operate a facility principally engaged in the assembly of nuclear weapons from components received from other Department of Energy plants; the fabrication of chemical high explosive components for nuclear weapons; surveillance testing and processing of chemical high explosives; disassembly of nuclear weapons; maintenance, modification, repair and nonexplosive testing of nuclear weapons components; and disposal of treated environmental restoration wastewater. The Applicant has applied to the Texas Commission on Environmental Quality (TCEQ) for a major amendment of TPDES Permit No. WQ0002296000, now to become TCEQ Permit No. WQ0002296000.

The requested amendments from the application would remove effluent limitations for ammonia (as N), high explosives, oil and grease, total suspended solids, total cyanide, total antimony, total arsenic, total beryllium, total cadmium, total chromium, total cobalt, total lead, total mercury, total molybdenum, total nickel, total selenium, total silver, total thallium, and total titanium at Outfall 001; would increase effluent limitations for total copper, total manganese, and total zinc at Outfall 001; would authorize the use of a minimum of 21 days residence time as an

alternative to chlorination requirements; and would cause the permit to be reissued only under state regulatory authority (the Texas Water Code) and not under federal regulatory authority (the Clean Water Act).

The draft permit does not incorporate all requested amendments from the application. There are no changes in flow restrictions or effluent limitations for high explosives, oil and grease, biochemical oxygen demand, chemical oxygen demand, or pH. The draft permit does change the effluent limitations for total suspended solids, total copper, total manganese, and total zinc, it also eliminates monitoring for ammonia, total cyanide, total antimony, total arsenic, total beryllium, total cadmium, total chromium, total cobalt, total lead, total mercury, total molybdenum, total nickel, total selenium, total silver, total thallium, and total titanium. The draft permit authorizes the use of a minimum of 21 days residence time as an alternative to chlorination requirements, and reissues the permit only under state regulatory authority and not under federal regulatory authority.

The current permit authorizes the discharge of domestic effluent and industrial effluent at a daily average flow not to exceed 560,000 gallons per day via Outfall 001.

The facility is located approximately 17 miles northeast of the City of Amarillo and 10 miles west of the City of Panhandle, west of Farm-to-Market Road 2373, south of Farm-to-Market Road 293 and north of U.S. Highway 60, in Carson County, Texas. The effluent is discharged to a playa lake, located adjacent to the watershed of McClellen Creek which flows into the North Fork Red River, in Segment No. 0224 of the Red River Basin. The designated uses for Segment No. 0224 are high aquatic life use and contact recreation.

Procedural Background

The application was received on March 8, 2005 and declared administratively complete on June 1, 2005. The Executive Director completed the technical review of the application on October 20, 2005, and prepared a draft permit. The Notice of Receipt and Intent to Obtain a Water Quality Permit Renewal (NORI) was published on June 23, 2005 in the *Amarillo Globe News* and in the *Panhandle Herald.* The Notice of Application and Preliminary Decision (NAPD) was published on September 7, 2006 in the *Amarillo Globe News* and in the *Panhandle Herald.* A public meeting was held for this application on April 12, 2007 in Panhandle, Texas, at the Panhandle Elementary School Cafeteria. Notice of the public meeting was published on March 12, 2007 in the *Amarillo Globe News* and on March 15, 2007 in the *Panhandle Herald.* The public comment period ended on April 12, 2007 at the close of the public meeting. Interested persons at the public meeting requested that the ED's staff review some additional studies. Staff accommodated this request and addressed these studies in the Response to Public Comments. Because of the complexity of the technical comments received on this application, the review of additional studies, and the coordination with other TCEQ programs, including the Amarillo Region, the groundwater team, and the Remediation Division, the Response to Public Comments was not filed until January 4, 2008.

II. ANALYSIS OF REQUEST FOR RECONSIDERATION

According to 30 TAC, Section 55.209(f), responses to Requests for Reconsideration (RFR) are to address the issues raised in the request.

The TCEQ received a timely filed Request for Reconsideration from **Mavis Belisle, Danny** and **Bernice Detten, Jeff Detten, May Hochstein, Dana Koetting, Dale Livingston,** and **Jim Murphy**.

The issues raised by the Requestors were previously addressed in the Executive Director's Response to Public Comments (RTC). The issues and responses are as follows:

Issue No. 1:

May Hochstein, Dana Koetting, Cletus Stein, Jim Murphy, Dale Livingston, Jeff Detten, Danny and Bernice Detten, and Mavis Belisle are concerned about adverse impacts to groundwater. They state that the Pantex Plant has acknowledged that wastewater discharges into ditches and playas, specifically Playa 1, have caused contamination of the upper layer of the Ogallala Aquifer, and pose a risk of contamination to the Ogallala. They are concerned that the proposed permit will allow increased discharges of contaminated water, with increased levels of contamination, into the playa.

Response No. 1:

Issue No. 1 was addressed in the Executive Director's RTC. It was specifically addressed in RTC Response Nos. 2, 3, and 4, as follows:

> It is the ED's understanding that the contamination at the Pantex plant site is a result of historical activities that are no longer conducted in the same manner at the facility today. Current facility operations, subject to regulation under this permit, should not have any adverse impact to surface waters or groundwaters in conjunction with current corrective action activities.
>
> Pantex has been conducting remedial activities on the perched aquifer since 1995. Pantex is required to achieve the remedial action objective defined for the perched aquifer to the satisfaction of the TCEQ and the EPA. The remedial action objectives for the perched aquifer are still under review by the EPA and the TCEQ as part of the "Corrective Measures Study/Feasibility Study" report. Pantex is required to perform interim stabilization measures on the perched aquifer per TCEQ Compliance Plan No. 50284.
>
> To date, no constituents have impacted the Ogallala Aquifer in recognizable or definitive patterns. It is anticipated that the continued remediation activities of the perched aquifer and the long-term monitoring of the Ogallala Aquifer will help prevent any adverse impact to the Ogallala Aquifer.

With respect to the issue that discharges into the playa will recharge the perched aquifer and thence the Ogallala Aquifer, it is not anticipated that the discharges regulated by the proposed permit will cause any additional adverse impact to the quality of the Ogallala Aquifer. If the wastewater discharge under the proposed permit were to migrate into the vicinity of the perched aquifer, it is anticipated that the on-going groundwater remediation activities would prevent any contaminants from migrating down to the Ogallala Aquifer.

The draft permit maintains the same volume of permitted flows that are established in the current wastewater discharge permit. There will be no increase to the authorized quantity of wastewater that can be discharged via Outfall 001 into the playa.

The draft permit includes increased effluent limitations for total copper, total manganese, and total zinc at Outfall 001 and removes effluent limitations for ammonia (as nitrogen), cyanide, total arsenic, total chromium, total lead, total nickel, total thallium, and total titanium at Outfall 001. The effluent limitations for total suspended solids (TSS) have also been altered. The October-February seasonal limits for TSS have been changed to match the March – September seasonal limits of 60 mg/L daily average and 90 mg/L daily maximum. Ammonia (as nitrogen) will be controlled through other limited parameters that are continued in the draft permit. The remaining constituents, for which effluent limitations have been removed, have not been detected in the effluent.

These changes are based on the determination that the discharge to the playa lake falls under the exemption contained in the TCEQ's Playa Lake Policy Statement, and therefore, surface water quality standards are not applicable to the playa lake.

The permittee will be required to perform an analysis for all possible contaminants contained in the discharge and report the results to the TCEQ whenever the permit needs to be renewed or a major amendment is requested.

Issue No. 2:

May Hochstein, Dana Koetting, Cletus Stein, Jim Murphy, Dale Livingston, Jeff Detten, Danny and Bernice Detten, and Mavis Belisle are concerned about a potential risk to the value of their property.

Response No. 2:

Issue No. 2 was addressed in the Executive Director's RTC. It was specifically addressed in RTC Response No. 6, as follows:

> TCEQ's jurisdiction in a wastewater permit application is limited to the issues set out in Chapter 26 of the Texas Water Code. TCEQ does not have jurisdiction to consider property values when reviewing an application for a wastewater permit,

> nor does the TCEQ have zoning authority. Except under limited circumstances, not implicated under this permit application, the issuance of a permit cannot be denied on the basis of the facility's location.

Issue No. 3:

May Hochstein, Cletus Stein, Jim Murphy, and Dale Livingston are concerned that the proposed permit could adversely affect their ability to use their property.

Response No.3:

Issue No. 3 was also addressed in the Executive Director's RTC. It was specifically addressed in RTC Response No. 6, as follows:

> TCEQ's jurisdiction in a wastewater permit application is limited to the issues set out in Chapter 26 of the Texas Water Code. TCEQ does not have jurisdiction to consider property values when reviewing an application for a wastewater permit, nor does the TCEQ have zoning authority. Except under limited circumstances, not implicated under this permit application, the issuance of a permit cannot be denied on the basis of the facility's location.

Issue No. 4:

Dana Koetting, Jeff Detten, Danny and Bernice Detten, and Mavis Belisle are concerned about an increased risk to their health and the health of their families.

Response No. 4:

Issue No. 4 was addressed in the Executive Director's RTC. It was specifically addressed in RTC Response No. 5, as follows:

> The proposed changes in the draft permit are not expected to increase risks to the health of the adjacent property owners and other users of the Ogallala Aquifer. The effluent limitations proposed in the draft permit are consistent with applicable agency rules, regulations, and policies which have been developed and are implemented to be protective of human health and the environment.
>
> Regarding possible health risks from exposure to the playa itself, the playa is located on a highly secured federal facility and is not accessible to the public for swimming, fishing, or other recreational activities.

III. EXECUTIVE DIRECTOR'S RECOMMENDATION

All of the Requestors' concerns were addressed in the Executive Director's Response to Public Comments. The proposed permit complies with applicable statutes and regulations and no

additional information was provided that would cause the Executive Director to alter his recommendation to issue the permit. Consequently, the Executive Director respectfully recommends denial of the Requests for Reconsideration.

Respectfully submitted,

Texas Commission on Environmental Quality

Glenn Shankle
Executive Director

Robert Martinez, Director
Environmental Law Division

Marc Friberg, Staff Attorney
Environmental Law Division
State Bar No. 24048472
P.O. Box 13087, MC 173
Austin, Texas 78711-3087
(512) 239-0611

REPRESENTING THE
EXECUTIVE DIRECTOR OF THE
TEXAS COMMISSION ON
ENVIRONMENTAL QUALITY

CERTIFICATE OF SERVICE

I certify that on May 23, 2008 an original and eleven copies of the foregoing "Executive Director's Response to Request for Reconsideration" and attachments for Permit No. WQ0002296000 were filed with the Texas Commission on Environmental Quality's Office of the Chief Clerk and a complete copy was mailed to all persons on the attached mailing list.

Marc Friberg, Staff Attorney
Environmental Law Division
State Bar No. 24048472

TEXAS COMMISSION ON ENVIRONMENTAL QUALITY
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ATTACHMENT A

TCEQ PERMIT NO. WQ0002296000

TEXAS COMMISSION ON ENVIRONMENTAL QUALITY
P. O. Box 13087
Austin, Texas 78711-3087

This permit supersedes and replaces TPDES Permit No. WQ0002296000, issued on January 28, 2005.

PERMIT TO DISCHARGE WASTES
under provisions of
Chapter 26 of the Texas Water Code

United States Department of Energy and BWXT Pantex, L.L.C.

whose mailing address is

c/o National Nuclear Security Administration
P.O. Box 30030
Amarillo, Texas 79120-0030

is authorized to treat and discharge wastes from a facility principally engaged in the assembly of nuclear weapons from components received from other Department of Energy plants; the fabrication of chemical high explosive components for nuclear weapons; surveillance testing and processing of chemical high explosives; disassembly of nuclear weapons; maintenance, modification, repair and nonexplosive testing of nuclear weapons components; and disposal of treated environmental restoration wastewater (SIC 2892 & 3483)

located approximately 17 miles northeast of the City of Amarillo and 10 miles west of the City of Panhandle, west of Farm-to-Market Road 2373, south of Farm-to-Market Road 293 and north of U.S. Highway 60, Carson County, Texas

to a playa lake, located adjacent to the watershed of McClellen Creek which flows into the North Fork Red River in Segment No. 0224 of the Red River Basin

only according to effluent limitations, monitoring requirements and other conditions set forth in this permit, as well as the rules of the Texas Commission on Environmental Quality (TCEQ), the laws of the State of Texas, and other orders of the TCEQ. The issuance of this permit does not grant to the permittee the right to use private or public property for conveyance of wastewater along the discharge route described in this permit. This includes, but is not limited to, property belonging to any individual, partnership, corporation or other entity. Neither does this permit authorize any invasion of personal rights nor any violation of federal, state, or local laws or regulations. It is the responsibility of the permittee to acquire property rights as may be necessary to use the discharge route.

This permit shall expire at midnight on December 1, 2010.

ISSUED DATE:

For the Commission

EFFLUENT LIMITATIONS AND MONITORING REQUIREMENTS

Outfall Number: 001

1. During the period beginning upon date of issuance and lasting through date of expiration, the permittee is authorized to discharge domestic effluent and industrial effluent subject to the following effluent limitations:

The daily average flow of effluent shall not exceed 0.56 million gallons per day (MGD). The total volume discharged during any 24-hour period shall not exceed 0.82 million gallons.

Effluent Characteristic	Discharge Limitations			Minimum Self-Monitoring Requirements	
	Daily Avg mg/l	Daily Max mg/l	Single Grab mg/l	Report Daily Avg. & Daily Max. Measurement Frequency	Sample Type
Flow (MGD)	0.56 MGD	0.82 MGD	N/A	Continuous	Flow Meter
Biochemical Oxygen Demand (5-day)	30	70	100	1/week	Composite
Chemical Oxygen Demand	N/A	150	150	1/month	Composite
Total Suspended Solids	60	90	100	1/week	Composite
Oil and Grease	N/A	15	15	1/week	Grab
Copper (total)	0.50	1.0	2.0	1/quarter	Grab *1
Manganese (total)	1.0	2.0	3.0	1/quarter	Grab *1
Zinc (total)	1.0	2.0	6.0	1/quarter	Grab *1
HMX	0.1	Report	N/A	1/quarter	Grab *1
RDX	0.2	Report	N/A	1/quarter	Grab *1
PETN	0.4	Report	N/A	1/quarter	Grab *1
TNT	0.02	Report	N/A	1/quarter	Grab *1

*1 Composite sample may be used in lieu of grab sample.

2. The domestic sewage effluent shall 1) have a minimum residence time in the treatment system of 21 days before discharge via Outfall 001; or 2) contain a chlorine residual of at least 1.0 mg/l and a maximum chlorine residual of 4.0 mg/l after a detention time of at least 20 minutes (based on peak flow), and shall be monitored 5/week, by grab sample. An equivalent method of disinfection may be substituted only with prior approval of the Executive Director.

3. The pH shall not be less than 6.0 standard units nor greater than 10.0 standard units and shall be monitored 1/day, by grab sample.

4. There shall be no discharge of floating solids or visible foam in other than trace amounts and no discharge of visible oil.

5. Effluent monitoring samples shall be taken at the following location: At Outfall 001, prior to discharges to Playa No. 1, at the outlet weir from the wastewater treatment lagoon.

STANDARD PERMIT CONDITIONS

This permit is granted in accordance with the Texas Water Code and the rules and other Orders of the Commission and the laws of the State of Texas.

DEFINITIONS

All definitions in Section 26.001 of the Texas Water Code and 30 TAC Chapter 305 shall apply to this permit and are incorporated by reference. Some specific definitions of words or phrases used in this permit are as follows:

1. Flow Measurements

   a. Daily average flow - the arithmetic average of all determinations of the daily flow within a period of one calendar month. The daily average flow determination shall consist of determinations made on at least four separate days. If instantaneous measurements are used to determine the daily flow, the determination shall be the arithmetic average of all instantaneous measurements taken during that month. Daily average flow determination for intermittent discharges shall consist of a minimum of three flow determinations on days of discharge.

   b. Annual average flow - the arithmetic average of all daily flow determinations taken within the preceding 12 consecutive calendar months. The annual average flow determination shall consist of daily flow volume determinations made by a totalizing meter, charted on a chart recorder and limited to major domestic wastewater discharge facilities with a 1 million gallons per day or greater permitted flow.

   c. Instantaneous flow - the measured flow during the minimum time required to interpret the flow measuring device.

2. Concentration Measurements

   a. Daily average concentration - the arithmetic average of all effluent samples, composite or grab as required by this permit, within a period of one calendar month, consisting of at least four separate representative measurements.

      i. For domestic wastewater treatment plants - When four samples are not available in a calendar month, the arithmetic average (weighted by flow) of all values in the previous four consecutive month period consisting of at least four measurements shall be utilized as the daily average concentration.

      ii. For all other wastewater treatment plants - When four samples are not available in a calender month, the arithmetic average (weighted by flow) of all values taken during the month shall be utilized as the daily average concentration.

   b. 7-day average concentration - the arithmetic average of all effluent samples, composite or grab as required by this permit, within a period of one calendar week, Sunday through Saturday.

   c. Daily maximum concentration - the maximum concentration measured on a single day, by the sample type specified in the permit, within a period of one calender month.

3. Sample Type

   a. Composite sample - For domestic wastewater, a composite sample is a sample made up of a minimum of three effluent portions collected in a continuous 24-hour period or during the period of daily discharge if less than 24 hours, and combined in volumes proportional to flow, and collected at the intervals required by 30 TAC § 319.9 (a). For industrial wastewater, a composite sample is a sample made up of a minimum of three effluent portions collected in a continuous 24-hour period or during the period of daily discharge if less than 24 hours, and combined in volumes proportional to flow, and collected at the intervals required by 30 TAC § 319.9 (b).

   b. Grab sample - an individual sample collected in less than 15 minutes.

4. Treatment Facility (facility) - wastewater facilities used in the conveyance, storage, treatment, recycling, reclamation and/or disposal of domestic sewage, industrial wastes, agricultural wastes, recreational wastes, or other wastes including sludge handling or disposal facilities under the jurisdiction of the Commission.

5. The term "sewage sludge" is defined as solid, semi-solid, or liquid residue generated during the treatment of domestic sewage in 30 TAC Chapter 312. This includes the solids which have not been classified as hazardous waste separated from wastewater by unit processes.

6. Bypass - the intentional diversion of a waste stream from any portion of a treatment facility.

MONITORING REQUIREMENTS

1. Monitoring Requirements

Monitoring results shall be provided at the intervals specified in the permit. Unless otherwise specified in this permit or otherwise ordered by the Commission, the permittee shall conduct effluent sampling and reporting in accordance with 30 TAC §§ 319.4 - 319.12. Unless otherwise specified, a monthly effluent report shall be submitted each month, to the Enforcement Division (MC 224), by the 20th day of the following month for each discharge which is described by this permit whether or not a discharge is made for that month. Monitoring results must be reported on an approved self-report form, that is signed and certified as required by Monitoring and Reporting Requirements No. 10.

As provided by state law, the permittee is subject to administrative, civil and criminal penalties, as applicable, for negligently or knowingly violating the Texas Water Code, Chapters 26, 27, and 28, and Texas Health and Safety Code, Chapter 361, including but not limited to knowingly making any false statement, representation, or certification on any report, record or other document submitted or required to be maintained under this permit, including monitoring reports, records or reports of compliance or noncompliance, or falsifying, tampering with or knowingly rendering inaccurate any monitoring device or method required by this permit or violating any other requirement imposed by state or federal regulations.

2. Test Procedures

Unless otherwise specified in this permit, test procedures for the analysis of pollutants shall comply with procedures specified in 30 TAC §§319.11 - 319.12. Measurements, tests and calculations shall be accurately accomplished in a representative manner.

3. Records of Results

a. Monitoring samples and measurements shall be taken at times and in a manner so as to be representative of the monitored activity.

b. Except for records of monitoring information required by this permit related to the permittee's sewage sludge use and disposal activities, which shall be retained for a period of at least five years, monitoring and reporting records, including strip charts and records of calibration and maintenance, copies of all records required by this permit, and records of all data used to complete the application for this permit-shall be retained at the facility site, or shall be readily available for review by a TCEQ representative for a period of three years from the date of the record or sample, measurement, report, or application. This period shall be extended at the request of the Executive Director.

c. Records of monitoring activities shall include the following:

i. date, time and place of sample or measurement;
ii. identity of individual who collected the sample or made the measurement.
iii. date and time of analysis;
iv. identity of the individual and laboratory who performed the analysis;
v. the technique or method of analysis; and
vi. the results of the analysis or measurement and quality assurance/quality control records.

The period during which records are required to be kept shall be automatically extended to the date of the final disposition of any administrative or judicial enforcement action that maybe instituted against the permittee.

4. Additional Monitoring by Permittee

If the permittee monitors any pollutant at the location(s) designated herein more frequently than required by this permit using approved analytical methods as specified above, all results of such monitoring shall be included in determining compliance with permit requirements.

5. Calibration of Instruments

All automatic flow measuring or recording devices and all totalizing meters for measuring flows shall be accurately calibrated by a trained person at plant start-up and as often thereafter as necessary to ensure accuracy, but not less often than annually unless authorized by the Executive Director for a longer period. Such person shall verify in writing that the device is operating properly and giving accurate results. Copies of the verification shall be retained at the facility site and/or shall be readily available for review by a TCEQ representative for a period of three years.

6. Compliance Schedule Reports

Reports of compliance or noncompliance with, or any progress reports on, interim and final requirements contained in any compliance schedule of the permit shall be submitted no later than 14 days following each schedule date to the Regional Office and the Enforcement Division (MC 224).

7. Noncompliance Notification

a. In accordance with 30 TAC § 305.125(9), any noncompliance which may endanger human health or safety, or the environment shall be reported by the permittee to the TCEQ. Report of such information shall be provided orally or by facsimile transmission (FAX) to the Regional Office within 24 hours of becoming aware of the noncompliance. A written submission of such information shall also be provided by the permittee to the Regional Office and the Enforcement Division (MC 224) within five working days of becoming aware of the noncompliance. The written submission shall contain a description of the noncompliance and its cause; the potential danger to human health or safety, or the environment; the period of noncompliance, including exact dates and times; if the noncompliance has not been corrected, the time it is expected to continue; and steps taken or planned to reduce, eliminate, and prevent recurrence of the noncompliance, and to mitigate its adverse effects.

b. The following violations shall be reported under Monitoring and Reporting Requirement 7.a.:

i. Unauthorized discharges as defined in Permit Condition 2(g).

ii. Any unanticipated bypass which exceeds any effluent limitation in the permit.

c. In addition to the above, any effluent violation which deviates from the permitted effluent limitation by more than 40% shall be reported by the permittee in writing to the Regional Office and the Enforcement Division (MC 224) within 5 working days of becoming aware of the noncompliance.

d. Any noncompliance other than that specified in this section, or any required information not submitted or submitted incorrectly, shall be reported to the Enforcement Division (MC 224) as promptly as possible.

8. In accordance with the procedures described in 30 TAC §§ 35.301 - 35.303 (relating to Water Quality Emergency and Temporary Orders) if the permittee knows in advance of the need for a bypass, it shall submit prior notice by applying for such authorization.

9. Changes in Discharges of Toxic Substances

All existing manufacturing, commercial, mining, and silvicultural permittees shall notify the Regional Office, orally or by facsimile transmission within 24 hours, and both the Regional Office and the Enforcement Division (MC 224) in writing within five (5) working days, after becoming aware of or having reason to believe:

a. That any activity has occurred or will occur which would result in the discharge, on a routine or frequent basis, of any toxic pollutant listed at 40 CFR Part 122, Appendix D, Tables II and III (excluding Total Phenols) which is not limited in the permit, if that discharge will exceed the highest of the following "notification levels":

i. One hundred micrograms per liter (100 μg/L);
ii. Two hundred micrograms per liter (200 μg/L) for acrolein and acrylonitrile; five hundred micrograms per liter (500 μg/L) for 2,4-dinitrophenol and for 2-methyl-4,6-dinitrophenol; and one milligram per liter (1 mg/L) for antimony;
iii. Five (5) times the maximum concentration value reported for that pollutant in the permit application; or
iv. The level established by the TCEQ.

b. That any activity has occurred or will occur which would result in any discharge, on a nonroutine or infrequent basis, of a toxic pollutant which is not limited in the permit, if that discharge will exceed the highest of the following "notification levels":

i. Five hundred micrograms per liter (500 μg/L);
ii. One milligram per liter (1 mg/L) for antimony;
iii. Ten (10) times the maximum concentration value reported for that pollutant in the permit application; or
iv. The level established by the TCEQ.

10. Signatories to Reports

All reports and other information requested by the Executive Director shall be signed by the person and in the manner required by 30 TAC § 305.128 (relating to Signatories to Reports).

PERMIT CONDITIONS

1. General

a. When the permittee becomes aware that it failed to submit any relevant facts in a permit application, or submitted incorrect information in an application or in any report to the Executive Director, it shall promptly submit such facts or information.

b. This permit is granted on the basis of the information supplied and representations made by the permittee during action on an application, and relying upon the accuracy and completeness of that information and those representations. After notice and opportunity for a hearing, this permit may be modified, suspended, or revoked, in whole or in part, in accordance with 30 TAC Chapter 305, Subchapter D, during its term for good cause including, but not limited to, the following:

i. Violation of any terms or conditions of this permit;
ii. Obtaining this permit by misrepresentation or failure to disclose fully all relevant facts; or
iii. A change in any condition that requires either a temporary or permanent reduction or elimination of the authorized discharge.

c. The permittee shall furnish to the Executive Director, upon request and within a reasonable time, any information to determine whether cause exists for amending, revoking, suspending or terminating the permit. The permittee shall also furnish to the Executive Director, upon request, copies of records required to be kept by the permit.

2. Compliance

a. Acceptance of the permit by the person to whom it is issued constitutes acknowledgment and agreement that such person will comply with all the terms and conditions embodied in the permit, and the rules and other orders of the Commission.

b. The permittee has a duty to comply with all conditions of the permit. Failure to comply with any permit condition constitutes a violation of the permit and the Texas Water Code or the Texas Health and Safety Code, and is grounds for enforcement action, for permit amendment, revocation or suspension, or for denial of a permit renewal application or an application for a permit for another facility.

c. It shall not be a defense for a permittee in an enforcement action that it would have been necessary to halt or reduce the permitted activity in order to maintain compliance with the conditions of the permit.

d. The permittee shall take all reasonable steps to minimize or prevent any discharge or sludge use or disposal or other permit violation which has a reasonable likelihood of adversely affecting human health or the environment.

e. Authorization from the Commission is required before beginning any change in the permitted facility or activity that may result in noncompliance with any permit requirements.

f. A permit may be amended, suspended and reissued, or revoked for cause in accordance with 30 TAC §§ 305.62 and 305.66 and Texas Water Code Section 7.302. The filing of a request by the permittee for a permit amendment, suspension and reissuance, or termination, or a notification of planned changes or anticipated noncompliance, does not stay any permit condition.

g. There shall be no unauthorized discharge of wastewater or any other waste. For the purpose of this permit, an unauthorized discharge is considered to be any discharge of wastewater into or adjacent to water in the state at any location not permitted as an outfall or otherwise defined in the Special Provisions section of this permit.

h. The permittee is subject to administrative, civil, and criminal penalties, as applicable, under Texas Water Code §§7.051 - 7.075 (relating to Administrative Penalties), 7.101 - 7.111 (relating to Civil Penalties), and 7.141 - 7.202 (relating to Criminal Offenses and Penalties).

3. Inspections and Entry

   a. Inspection and entry shall be allowed as prescribed in the Texas Water Code Chapters 26, 27, and 28, and Texas Health and Safety Code Chapter 361.

   b. The members of the Commission and employees and agents of the Commission are entitled to enter any public or private property at any reasonable time for the purpose of inspecting and investigating conditions relating to the quality of water in the state or the compliance with any rule, regulation, permit or other order of the Commission. Members, employees, or agents of the Commission and Commission contractors are entitled to enter public or private property at any reasonable time to investigate or monitor or, if the responsible party is not responsive or there is an immediate danger to public health or the environment, to remove or remediate a condition related to the quality of water in the state. Members, employees, Commission contractors, or agents acting under this authority who enter private property shall observe the establishment's rules and regulations concerning safety, internal security, and fire protection, and if the property has management in residence, shall notify management or the person then in charge of his presence and shall exhibit proper credentials. If any member, employee, Commission contractor, or agent is refused the right to enter in or on public or private property under this authority, the Executive Director may invoke the remedies authorized in Texas Water Code Section 7.002. The statement above, that Commission entry shall occur in accordance with an establishment's rules and regulations concerning safety, internal security, and fire protection, is not grounds for denial or restriction of entry to any part of the facility, but merely describes the Commission's duty to observe appropriate rules and regulations during an inspection.

4. Permit Amendment and/or Renewal

   a. The permittee shall give notice to the Executive Director as soon as possible of any planned physical alterations or additions to the permitted facility if such alterations or additions would require a permit amendment or result in a violation of permit requirements. Notice shall also be required under this paragraph when:

      i. The alteration or addition could significantly change the nature or increase the quantity of pollutants discharged. This notification applies to pollutants which are subject neither to effluent limitations in the permit, nor to notification requirements in Monitoring and Reporting Requirements No. 9;

      ii. The alteration or addition results in a significant change in the permittee's sludge use or disposal practices, and such alteration, addition, or change may justify the application of permit conditions that are different from or absent in the existing permit, including notification of additional use or disposal sites not reported during the permit application process or not reported pursuant to an approved land application plan.

   b. Prior to any facility modifications, additions, or expansions that will increase the plant capacity beyond the permitted flow, the permittee must apply for and obtain proper authorization from the Commission before commencing construction.

   c. The permittee must apply for an amendment or renewal prior to expiration of the existing permit in order to continue a permitted activity after the expiration date of the permit. If an application is submitted prior to the expiration date of the permit, the existing permit shall remain in effect until the application is approved, denied, or returned. If the application is returned or denied, authorization to continue such activity shall terminate upon the effective date of the action. If an application is not submitted prior to the expiration date of the permit, the permit shall expire and authorization to continue such activity shall terminate.

   d. Prior to accepting or generating wastes which are not described in the permit application or which would result in a significant change in the quantity or quality of the existing discharge, the permittee must report the proposed changes to the Commission. The permittee must apply for a permit amendment reflecting any necessary changes in permit conditions, including effluent limitations for pollutants not identified and limited by this permit.

   e. In accordance with the Texas Water Code § 26.029(b), after a public hearing, notice of which shall be given to the permittee, the Commission may require the permittee, from time to time, for good cause, in accordance with applicable laws, to conform to new or additional conditions.

5. Permit Transfer

   a. Prior to any transfer of this permit, Commission approval must be obtained. The Commission shall be notified in writing of any change in control or ownership of facilities authorized by this permit. Such notification should be sent to the Applications Review and Processing Team (MC 148) of the Water Quality Division.

b. A permit may be transferred only according to the provisions of 30 TAC § 305.64 (relating to Transfer of Permits) and 30 TAC § 50.133 (relating to Executive Director Action on Application or WQMP update).

6. Relationship to Hazardous Waste Activities

This permit does not authorize any activity of hazardous waste storage, processing, or disposal which requires a permit or other authorization pursuant to the Texas Health and Safety Code.

7. Property Rights

A permit does not convey any property rights of any sort, or any exclusive privilege.

8. Permit Enforceability

The conditions of this permit are severable, and if any provision of this permit, or the application of any provision of this permit to any circumstances, is held invalid, the application of such provision to other circumstances, and the remainder of this permit, shall not be affected thereby.

9. Relationship to Permit Application

The application pursuant to which the permit has been issued is incorporated herein; provided, however, that in the event of a conflict between the provisions of this permit and the application, the provisions of the permit shall control.

10. Notice of Bankruptcy.

a. Each permittee shall notify the executive director, in writing, immediately following the filing of a voluntary or involuntary petition for bankruptcy under any chapter of Title 11 (Bankruptcy) of the United States Code (11 USC) by or against:

i. the permittee;
ii. an entity (as that term is defined in 11 USC, §101(15)) controlling the permittee or listing the permit or permittee as property of the estate; or
iii. an affiliate (as that term is defined in 11 USC, §101(2)) of the permittee.

b. This notification must indicate:

i. the name of the permittee;
ii. the permit number(s);
iii. the bankruptcy court in which the petition for bankruptcy was filed; and
iv. the date of filing of the petition.

OPERATIONAL REQUIREMENTS

1. The permittee shall at all times ensure that the facility and all of its systems of collection, treatment, and disposal are properly operated and maintained. This includes, but is not limited to, the regular, periodic examination of wastewater solids within the treatment plant by the operator in order to maintain an appropriate quantity and quality of solids inventory as described in the various operator training manuals and according to accepted industry standards for process control. Process control, maintenance, and operations records shall be retained at the facility site, or shall be readily available for review by a TCEQ representative, for a period of three years.

2. Upon request by the Executive Director, the permittee shall take appropriate samples and provide proper analysis in order to demonstrate compliance with Commission rules. Unless otherwise specified in this permit or otherwise ordered by the Commission, the permittee shall comply with all applicable provisions of 30 TAC Chapter 312 concerning sewage sludge use and disposal and 30 TAC §§ 319.21 - 319.29 concerning the discharge of certain hazardous metals.

3. Domestic wastewater treatment facilities shall comply with the following provisions:

a. The permittee shall notify the Municipal Permits Team, Wastewater Permitting Section (MC 148) of the Water Quality Division, in writing, of any facility expansion at least 90 days prior to conducting such activity.

b. The permittee shall submit a closure plan for review and approval to the Land Applications Team, Wastewater Permitting Section (MC 148) of the Water Quality Division, for any closure activity at least 90 days prior to conducting such activity. Closure is the act of permanently taking a waste management unit or treatment facility out of service and includes the permanent removal from service of any pit, tank, pond, lagoon, surface impoundment and/or other treatment unit regulated by this permit.

4. The permittee is responsible for installing prior to plant start-up, and subsequently maintaining, adequate safeguards to prevent the discharge of untreated or inadequately treated wastes during electrical power failures by means of alternate power sources, standby generators, and/or retention of inadequately treated wastewater.

5. Unless otherwise specified, the permittee shall provide a readily accessible sampling point and, where applicable, an effluent flow measuring device or other acceptable means by which effluent flow may be determined.

6. The permittee shall remit an annual water quality fee to the Commission as required by 30 TAC Chapter 21. Failure to pay the fee may result in revocation of this permit under Texas Water Code § 7.302(b)(6).

7. Documentation

For all written notifications to the Commission required of the permittee by this permit, the permittee shall keep and make available a copy of each such notification under the same conditions as self-monitoring data are required to be kept and made available. Except for information specified as not confidential in 30 TAC § 1.5(d), any information submitted pursuant to this permit may be claimed as confidential by the submitter. Any such claim must be asserted in the manner prescribed in the application form or by stamping the words "confidential business information" on each page containing such information. If no claim is made at the time of submission, information may be made available to the public without further notice. If the Commission or Executive Director agrees with the designation of confidentiality, the TCEQ will not provide the information for public inspection unless required by the Texas Attorney General or a court pursuant to an open records request. If the Executive Director does not agree with the designation of confidentiality, the person submitting the information will be notified.

8. Facilities which generate domestic wastewater shall comply with the following provisions; domestic wastewater treatment facilities at permitted industrial sites are excluded.

a. Whenever flow measurements for any domestic sewage treatment facility reach 75 percent of the permitted daily average or annual average flow for three consecutive months, the permittee must initiate engineering and financial planning for expansion and/or upgrading of the domestic wastewater treatment and/or collection facilities. Whenever the flow reaches 90 percent of the permitted daily average or annual average flow for three consecutive months, the permittee shall obtain necessary authorization from the Commission to commence construction of the necessary additional treatment and/or collection facilities. In the case of a domestic wastewater treatment facility which reaches 75 percent of the permitted daily average or annual average flow for three consecutive months, and the planned population to be served or the quantity of waste produced is not expected to exceed the design limitations of the treatment facility, the permittee shall submit an engineering report supporting this claim to the Executive Director of the Commission.

If in the judgement of the Executive Director the population to be served will not cause permit noncompliance, then the requirement of this section may be waived. To be effective, any waiver must be in writing and signed by the Director of the Enforcement Division (MC 149) of the Commission, and such waiver of these requirements will be reviewed upon expiration of the existing permit; however, any such waiver shall not be interpreted as condoning or excusing any violation of any permit parameter.

b. The plans and specifications for domestic sewage collection and treatment works associated with any domestic permit must be approved by the Commission, and failure to secure approval before commencing construction of such works or making a discharge is a violation of this permit and each day is an additional violation until approval has been secured.

c. Permits for domestic wastewater treatment plants are granted subject to the policy of the Commission to encourage the development of area-wide waste collection, treatment and disposal systems. The Commission reserves the right to amend any domestic wastewater permit in accordance with applicable procedural requirements to require the system covered by this permit to be integrated into an area-wide system, should such be developed; to require the delivery of the wastes authorized to be collected in, treated by or discharged from said system, to such area-wide system; or to amend this permit in any other particular to effectuate the Commission's policy. Such amendments may be made when the changes required are advisable for water quality control purposes and are feasible on the basis of waste treatment technology, engineering, financial, and related considerations existing at the time the changes are required, exclusive of the loss of investment in or revenues from any then existing or proposed waste collection, treatment or disposal system.

9. Domestic wastewater treatment plants shall be operated and maintained by sewage plant operators holding a valid certificate of competency at the required level as defined in 30 TAC Chapter 30.

10. Facilities which generate industrial solid waste as defined in 30 TAC § 335.1 shall comply with these provisions:

    a. Any solid waste, as defined in 30 TAC § 335.1 (including but not limited to such wastes as garbage, refuse, sludge from a waste treatment, water supply treatment plant or air pollution control facility, discarded materials, discarded materials to be recycled, whether the waste is solid, liquid, or semisolid), generated by the permittee during the management and treatment of wastewater, must be managed in accordance with all applicable provisions of 30 TAC Chapter 335, relating to Industrial Solid Waste Management.

    b. Industrial wastewater that is being collected, accumulated, stored, or processed before discharge through any final discharge outfall, specified by this permit, is considered to be industrial solid waste until the wastewater passes through the actual point source discharge and must be managed in accordance with all applicable provisions of 30 TAC Chapter 335.

    c. The permittee shall provide written notification, pursuant to the requirements of 30 TAC § 335.8(b)(1), to the Corrective Action Section (MC 127) of the Remediation Division informing the Commission of any closure activity involving an Industrial Solid Waste Management Unit, at least 90 days prior to conducting such an activity.

    d. Construction of any industrial solid waste management unit requires the prior written notification of the proposed activity to the Registration and Reporting Section (MC 129) of the Registration, Review, and Reporting Division. No person shall dispose of industrial solid waste, including sludge or other solids from wastewater treatment processes, prior to fulfilling the deed recordation requirements of 30 TAC § 335.5.

    e. The term "industrial solid waste management unit" means a landfill, surface impoundment, waste-pile, industrial furnace, incinerator, cement kiln, injection well, container, drum, salt dome waste containment cavern, or any other structure vessel, appurtenance, or other improvement on land used to manage industrial solid waste.

    f. The permittee shall keep management records for all sludge (or other waste) removed from any wastewater treatment process. These records shall fulfill all applicable requirements of 30 TAC Chapter 335 and must include the following, as it pertains to wastewater treatment and discharge:

        i. Volume of waste and date(s) generated from treatment process;
        ii. Volume of waste disposed of on-site or shipped off-site;
        iii. Date(s) of disposal;
        iv. Identity of hauler or transporter;
        v. Location of disposal site; and
        vi. Method of final disposal.

    The above records shall be maintained on a monthly basis. The records shall be retained at the facility site, or shall be readily available for review by authorized representatives of the TCEQ for at least five years.

11. For industrial facilities to which the requirements of 30 TAC Chapter 335 do not apply, sludge and solid wastes, including tank cleaning and contaminated solids for disposal, shall be disposed of in accordance with Chapter 361 of the Texas Health and Safety Code.

TCEQ Revision 05/2004

OTHER REQUIREMENTS

1. Violations of daily maximum limitations for the following pollutants shall be reported orally to TCEQ Region 1 within 24 hours from the time the permittee becomes aware of the violation, followed by a written report within five days:

   Copper (Total)
   Manganese (Total)
   Zinc (Total)

2. EFFLUENT & WASTEWATER DEFINITIONS AND CLASSIFICATIONS

   A. The term "domestic effluent" means treated domestic sanitary sewage and treated laundry wastewater.

   B. The term "industrial effluent" means "industrial wastewater" which has been treated to remove pollutants. The term "industrial wastewater" includes "process wastewater" and "utility wastewaters" and "non-contact cooling (heating) waters".

   C. The term "process wastewater" means wastewaters from, but not limited to, any water which comes into contact with any product, raw material, product intermediate or process waste. Also included are high explosive filtered wastewater, cooling water for explosives, wastewater from manufacturing explosive components, wastewater from photographic processing (photographic X-ray lab), metal plating plant treated wastewater and wastewater from washdown of equipment, transport vehicles, pipe lines, vessels, storage tanks, process area slabs, storage area slabs and floordrains/sumpdrains, and treated wastewaters from environmental remediation activities.

   D. The term "utility wastewaters" means wastewaters from, but not limited to, wet scrubber air pollution control systems, ion exchange water treatment system, demineralizer backwash, water treatment, evaporator and boiler blowdown, steam condensates, laboratory and sampling streams, non-contact cooling (heating) operations, cooling tower basin cleaning wastes, cooling tower blowdown, once-through cooling water, reverse osmosis brine, water used to regenerate ion-exchange columns, and wastewaters generated from the sampling and production of monitor wells or the drilling and completion of monitoring wells. Sanitary wastes are not included.

   E. The term "non-contact cooling (heating) waters" means waters used for the purpose of cooling (heating) which do not come into contact with any product, raw material, product intermediate, or process waste.

   F. The term "outfall" shall mean any effluent monitoring location that may be identified by the permit.

   G. The terms "plant area or Pantex plant", when used in this permit, shall mean those land areas either owned or controlled by DOE which are located approximately 17 miles northeast of the City of Amarillo and 10 miles west of the City of Panhandle, west of Farm-to-Market Road 2373, south of Farm-to-Market Road 293 and north of U.S. Highway 60, Carson County, Texas

3. There shall be no discharge of domestic sewage effluent other than that discharged via Outfall 001, or to a septic tank/drainfield system, or disposed via TCEQ Permit No. WQ0004397000 or Underground Injection Control (UIC) Authorization No. 5W2000017.

4. The permittee shall operate the wastewater treatment facility lagoon in such a manner as to maintain a minimum freeboard of two feet. The permittee shall measure and record the freeboard of each pond once per month in a "freeboard log". The freeboard log shall be maintained on site and made available to authorized representatives of the TCEQ.

5. The permittee shall agree to maintain records, in a matter consistent with Requirement 3.b of the "Monitoring Requirements" of this permit, of all surface water sampling and testing. The permittee shall make these records available for inspection upon request of authorized representatives of the TCEQ.

6. MINIMUM ANALYTICAL LEVELS

COMPOUNDS	MAL (mg/L)
Copper (Total)	0.010
Manganese (Total)	0.020
Zinc (Total)	0.005
HMX	N/A
PETN	N/A
RDX	N/A
TNT	N/A

Test methods utilized shall be sensitive enough to demonstrate compliance with the permit effluent limitations. Permit compliance/noncompliance determinations will be based on the effluent limitations contained in this permit with consideration given to the minimum analytical level (MAL) for the parameters specified above.

When an analysis of an effluent sample for any of the parameters listed above indicates no detectable levels above the MAL and the test method detection level is as sensitive as the specified MAL, a value of zero (0) shall be used for that measurement when determining calculations and reporting requirements for the self-reporting form. This applies to determinations of daily maximum concentration, calculations of loading and daily averages, and other reportable results.

When a reported value is zero (0) based on this MAL provision, the permittee shall submit the following statement with the self-reporting form either as a separate attachment to the form or as a statement in the comments section of the form.

> "The reported value(s) of zero (0) for ____[list parameter(s)]____ on the self-reporting form for ____[monitoring period date range]____ is based on the following conditions: 1) the analytical method used had a method detection level as sensitive as the MAL specified in the permit, and 2) the analytical results contained no detectable levels above the specified MAL."

When an analysis of an effluent sample for a parameter indicates no detectable levels and the test method detection level is not as sensitive as the MAL specified in the permit, or an MAL is not specified in the permit for that parameter, the level of detection achieved shall be used for that measurement when determining calculations and reporting requirements for the self-reporting form. A zero (0) may not be used.

7 Flow measuring devices and readily accessible sampling points, as required by this permit, shall be provided by the permittee for each outfall.

8. There is no mixing zone established for these discharges to the playa lake. Water Quality Standards do not apply to this discharge.

9. Permit Conditions, Item 3, Inspections and Entry, is amended for purposes of this permit subject to the provisions of the Atomic Energy Act (as amended).

10. Monitoring results shall be provided at the intervals specified in the permit. For pollutants which are monitored annually, effluent reports shall be submitted in September of each year. For pollutants which are monitored twice per year, the first effluent report shall be submitted six months after the date of permit issuance and subsequent reports every six months thereafter. For pollutants which are monitored four times per year, the first effluent report shall be submitted three months after the date of permit issuance and subsequent reports every three months thereafter.

11. The permittee shall submit annual reports to the TCEQ, Wastewater Permitting Section, Industrial Team (MC-148) detailing research conducted in establishing a suitable test method for the parameter TATB in the permittee's effluent. The annual reports shall include the following information for test procedures considered for the pollutant TATB until a test method has been submitted to the TCEQ for approval:

    A. Summary(ies) of test procedure(s) including detection levels, known interferences, etc.;
    B. Analytical cost(s) of test procedure(s);
    C. Reference material including method development and accreditation.

12. The permittee shall use test procedures based on U.S. Environmental Protection Agency, *Test Methods for Evaluating Solid Waste*, EPA Manual SW-846, Method 8330 for the analysis of HMX, RDX, PETN, and TNT.

13. Definitions and Standard Permit Conditions, Item 2.c., daily maximum concentration, is amended as follows:

    Daily maximum concentration - the maximum concentration measured on a single day, by the sample type specified in the permit, within a period of one calender month (when required monitoring frequency is equal to or more frequent than once per month) or within the period equivalent to the specified monitoring frequency (when required monitoring frequency is less frequent than once per month).

TECHNICAL SUMMARY AND EXECUTIVE DIRECTOR'S PRELIMINARY DECISION

DESCRIPTION OF APPLICATION

Applicant:	United States Department of Energy and BWXT Pantex, L.L.C.c/o National Nuclear Security Administration; TCEQ Permit No. WQ0002296000.
Regulated Activity:	Industrial Wastewater Permit.
Type of Application:	Amendment.
Request:	Major amendment with renewal to remove effluent limitations for ammonia (as N), high explosives, oil and grease, total suspended solids, total cyanide, total antimony, total arsenic, total beryllium, total cadmium, total chromium, total cobalt, total lead, total mercury, total molybdenum, total nickel, total selenium, total silver, total thallium, and total titanium at Outfall 001; increase effluent limitations for total copper, total manganese, and total zinc at Outfall 001; authorize the use of a minimum of 21 days residence time as an alternative to chlorination requirements; and reissue the permit only under State regulatory authority (Texas Water Code) and not under Federal regulatory authority (Clean Water Act).
Authority:	Texas Water Code § 26.027; 30 TAC Chapter 305, Subchapters C-F, Chapters 307 and 319, and Commission Policies.

EXECUTIVE DIRECTOR RECOMMENDATION

The Executive Director has made a preliminary decision that this permit, if issued, meets all statutory and regulatory requirements. The proposed permit be approved and issued to expire on December 1, 2010 in accordance with 30 TAC Section 305.71, Basin Permitting.

REASON FOR PROJECT PROPOSED

The applicant has applied to the Texas Commission on Environmental Quality (TCEQ) for an amendment of its existing permit as described above. The proposed amended permit will be reissued only under State regulatory authority (Texas Water Code) and not under Federal regulatory authority (Clean Water Act).

PROJECT DESCRIPTION AND LOCATION

The applicant operates a facility principally engaged in the assembly of nuclear weapons from components received from other Department of Energy plants; the fabrication of chemical high explosive components for nuclear weapons; surveillance testing and processing of chemical high explosives; disassembly of nuclear weapons; maintenance, modification, repair and nonexplosive testing of nuclear weapons components; and disposal of treated environmental restoration wastewater.

The wastewater system consists of a mixture of domestic sewage and photographic processing washwater; wastewaters from energetics production; reverse osmosis system and ion-exchange columns brine, and boiler wastewater and energetic machining wastewater are discharged to the wastewater treatment system. All wastewaters (except for pretreated wastewaters from on-site environmental restoration activities) are routed to a facultative lagoon (33.3 acre-feet capacity) prior to discharge via Outfall 001 or disposal via TCEQ Permit No. WQ0004397000 (subsurface irrigation on three 100-acre tracts of land). Pretreated wastewaters from on-site environmental restoration activities are routed to one of the storage lagoons prior to discharge via Outfall 001 or disposal via TCEQ Permit No. WQ0004397000.

The plant site is located approximately 17 miles northeast of the City of Amarillo and 10 miles west of the City of Panhandle, west of Farm-to-Market Road 2373, south of Farm-to-Market Road 293 and north of U.S. Highway 60, Carson County, Texas.

The effluent is discharged to a playa lake, located adjacent to the watershed of McClellen Creek which flows into the North Fork Red River in Segment No. 0224 of the Red River Basin. The designated uses for Segment No. 0224 are high aquatic life use and contact recreation. The effluent limits in the draft permit will maintain and protect the existing instream uses. All determinations are preliminary and subject to additional review and/or revisions.

The discharge from this permit action is not expected to have an effect on any federal endangered or threatened aquatic dependent species or proposed species or their critical habitat. This determination is based on the United States Fish and Wildlife Service's (USFWS) biological opinion on the State of Texas authorization of the Texas Pollutant Discharge Elimination System (TPDES; September 14, 1998; October 21, 1998 update). To make this determination for TPDES permits, TCEQ and EPA only considered aquatic or aquatic dependent species occurring in watersheds of critical concern or high priority as listed in Appendix A of the USFWS biological opinion. The determination is subject to reevaluation due to subsequent updates or amendments to the biological opinion. The permit does not require EPA review with respect to the presence of endangered or threatened species.

Segment No. 0224 is not currently listed on the State's inventory of impaired and threatened waters (the Clean Water Act Section 303(d) list).

SUMMARY OF EFFLUENT DATA

The following is a quantitative description of the discharge described in the Monthly Effluent Report data for the period May 2003 through April 2005. The "Average of Daily Avg." values presented in the following table are the average of all daily average values for the reporting period for each parameter. The "Maximum of Daily Max." values presented in the following table are the individual maximum values for the reporting period for each parameter:

Flow

Outfall	Frequency	Average of Daily Avg (MGD)	Maximum of Daily Max (MGD)
001	Intermittent	0.224 MGD	0.6494 MGD

Effluent Characteristics

Outfall	Parameter	Average of Daily Avg	Maximum of Daily Max
001	Biochemical Oxygen Demand (5-day)	0.33 mg/l	31.3 mg/l
	Chemical Oxygen Demand	N/A	79 mg/l
	Total Suspended Solids	14.8 mg/l	37 mg/l
	Oil & Grease	N/A	63.4 mg/l
	Ammonia (as Nitrogen)	3.7 mg/l	8.8 mg/l
	Total Residual Chlorine	0.0 mg/l (min)	3.8 mg/l
	Cyanide (Total)	N/A	< 0.020 mg/l
	Arsenic (Total)	< 0.010 mg/l	< 0.010 mg/l
	Beryllium (Total)	< 0.020 mg/l	< 0.020 mg/l
	Cadmium (Total)	< 0.001 mg/l	< 0.001 mg/l
	Chromium (Total)	< 0.010 mg/l	< 0.010 mg/l

Outfall	Parameter	Daily Avg	Daily Max
001 cont.	Cobalt (Total)	< 0.020 mg/l	< 0.020 mg/l
	Copper (Total)	< 0.010 mg/l	0.014 mg/l
	Lead (Total)	< 0.005 mg/l	< 0.005 mg/l
	Manganese (Total)	< 0.041 mg/l	0.057 mg/l
	Thallium (Total)	< 0.010 mg/l	< 0.010 mg/l
	Mercury (Total)	< 0.0002 mg/l	< 0.0002 mg/l
	Molybdenum (Total)	< 0.020 mg/l	< 0.020 mg/l
	Nickel (Total)	< 0.010 mg/l	< 0.010 mg/l
	Silver (Total)	< 0.002 mg/l	< 0.005 mg/l
	Zinc (Total)	0.023 mg/l	0.058 mg/l
	Antimony (Total)	< 0.020 mg/l	< 0.020 mg/l
	Selenium (Total)	< 0.010 mg/l	< 0.010 mg/l
	Titanium (Total)	< 0.100 mg/l	< 0.100 mg/l
	Trinitrotoluene	< 0.001 mg/l	< 0.001 mg/l
	PETN	<0.005 mg/l	< 0.005 mg/l
	RDX	0.001 mg/l	0.004 mg/l
	HMX	< 0.001 mg/l	0.002 mg/l
	pH	6.6 S.U. (min)	9.7 S.U.

Effluent Limitation Exceedances

Outfall	Parameter	Average of Daily Avg	Maximum of Daily Max
001	Oil and Grease	N/A	2
	Total Residual Chlorine	1 (min)	0
	Ammonia (as Nitrogen)	5	0

No changes were made to the draft permit based on the exceedances noted above for oil and grease and total residual chlorine based on the limited and infrequent exceedances observed.

In the case of ammonia (as nitrogen), the applicant requested removal of effluent limitations for ammonia from Outfall 001. The limitations and monitoring requirements for ammonia (as N) have been removed due to the determination that other continued limited parameters adequately maintain technology-based limitations in the permit.

PROPOSED PERMIT CONDITIONS

The draft permit authorizes a discharge of domestic effluent and industrial effluent via Outfall 001 at a daily average flow of effluent shall not exceed 0.56 million gallons per day.

Final effluent limitations and/or monitoring requirements for the discharge to the playa lake (Outfall 001) are established in the draft permit as follows:

Outfall No.	Parameter	Daily Avg (mg/l)	Daily Max (mg/l)
001	Biochemical Oxygen Demand (5-day)	30	70
	Chemical Oxygen Demand	N/A	150

Outfall No.	Parameter	Daily Avg (mg/l)	Daily Max (mg/l)
001 cont.	Total Suspended Solids	60	90
	Oil and Grease	N/A	15
	Copper (total)	0.50	1.0
	Manganese (total)	1.0	2.0
	Zinc (total)	1.0	2.0
	HMX	0.1	Report
	RDX	0.2	Report
	PETN	0.4	Report
	TNT	0.02	Report
	pH	6.0 S.U. (min)	10.0 S.U.

The domestic sewage effluent shall 1) have a minimum residence time in the treatment system of 21 days before discharge via Outfall 001; or 2) contain a chlorine residual of at least 1.0 mg/l and a maximum chlorine residual of 4.0 mg/l after a detention time of at least 20 minutes (based on peak flow). An equivalent method of disinfection may be substituted only with prior approval of the Executive Director.

Effluent limitations and/or monitoring requirements have been continued from the current permit and were originally establish as follows:

* Effluent limitations for biochemical oxygen demand (5-day) and total suspended solids are continued from the current TPDES permit and were previously based on best professional judgment (BPJ) to establish technology-based limitations.

* Effluent limitations for chemical oxygen demand, oil and grease and pH were previously based on the effluent limitations the TCEQ typically imposes on industrial wastewaters and were established as BPJ technology-based limitations.

* Effluent limitation and monitoring requirement for total residual chlorine were continued from the previous TPDES permit and based on disinfection requirements for treated sanitary wastewater. These limitations and monitoring requirements are only required when the permittee cannot maintain a minimum residence time in the treatment system of 21 days before discharge via Outfall 001. The 21 days residence time requirement is based on TCEQ rule 30 TAC 317.6(c)(1).

* Effluent limitations and monitoring requirements for total copper, total manganese, and total zinc at Outfall 001are based on 30 TAC 319.22.

* Effluent limitations and monitoring requirements for HMX, RDX, PETN, and TNT are continued from the current TPDES permit and were established as BPJ technology-based limitations.

Biomonitoring requirements are not included in the draft permit.

SUMMARY OF CHANGES FROM APPLICATION

The applicant requested the following changes in their amendment request which the Executive Director does not recommend granting:

* The applicant requested removal of effluent limitations for total suspended solids from Outfall 001. The current permit includes two sets of seasonal limitations for total suspended solids; the more stringent seasonal limitations were removed but the less stringent seasonal limitations were continued. This action is based on the need to maintain achievable technology-based limitations in the permit for this parameter.

* The applicant requested removal of effluent limitations for oil and grease and high explosives [Trinitrotoluene (TNT), PETN, RDX, and HMX] from Outfall 001. A review of the support documents for previous permit actions indicates that these are technology-based effluent limitations based on best professional judgement and not based on water quality protection. These limitations are continued into the draft permit.

See the next section for additional changes to the existing permit.

SUMMARY OF CHANGES FROM EXISTING PERMIT

The permittee requested the following changes in their amendment request which the Executive Director has recommended granting.

* The applicant requested removal of the effluent limitations and/or monitoring requirements for ammonia (as N), total cyanide, total antimony, total arsenic, total beryllium, total cadmium, total chromium, total cobalt, total lead, total mercury, total molybdenum, total nickel, total selenium, total silver, total thallium, and total titanium at Outfall 001. The removal is based on the determination that the discharge to the playa lake is a "grandfathered" activity under the TCEQ's Playa Lake Policy Statement and surface water quality standards are not applicable to the playa lake. In the case of ammonia (as N), other continued limited parameters adequately maintain technology-based limitations in the permit. In the case of the other parameters, historical self report data indicates that these parameters are not present in the wastewater which makes the continuation of these requirements unnecessary.

* The request to increase effluent limitations for total copper, total manganese, and total zinc at Outfall 001based on 30 TAC 319.22 has been made based on the determination that the discharge to the playa lake is a "grandfathered" activity under the TCEQ's Playa Lake Policy Statement and surface water quality standards are not applicable to the playa lake. The draft permit includes the revised limitations as requested.

* The request to authorize the use of a minimum of 21 days residence time as an alternative to chlorination requirements has been approved based on TCEQ rule 30 TAC 317.6(c)(1).

* The request to reissue the permit only under State regulatory authority (Texas Water Code) and not under Federal regulatory authority (Clean Water Act) has been incorporated into the proposed draft permit. On January 9, 2001 the U.S. Supreme Court issued a decision, Solid Waste Agency of Northern Cook County (SWANCC) v. United States Army Corps of Engineers, that Section 404 of the Clean Water Act (CWA) does not extend regulatory coverage to wetlands not adjacent to navigable waters. The permittee has requested that permit WQ0002296000 be reissued in a manner consistent with the U.S. Supreme Court ruling, as such, the permit is drafted in a manner consistent with permits issued exclusively under the Chapter 26 of the Texas Water Code.

The following additional changes have been made to the draft permit.

* The permit includes the most current standard language for permit requirements (MALs & boiler plate).

* Added Other Requirement Provision No. 14 to clarify the definition of "daily maximum concentration."

BASIS FOR PROPOSED DRAFT PERMIT

The following items were considered in developing the proposed permit draft:

1. Application on March 8, 2005. Additional information submitted with letter dated April 28, 2005.
2. Existing permits: TPDES Permit No. WQ0002296000 issued January 28, 2005.
3. TCEQ Rules.
4. Texas Surface Water Quality Standards - 30 TAC Sections 307.1-307.10, effective April 30, 1997, and Appendix E, effective February 27, 2002.
5. "Procedures to Implement the Texas Surface Water Quality Standards," Texas Commission on Environmental Quality, January 2003.
6. Memos from the Water Quality Standards Team and the Water Quality Assessment Team of the Water Quality Division.
7. "Guidance Document for Establishing Monitoring Frequencies for Domestic and Industrial Wastewater Discharge Permits," TCEQ Document No. 98-001.000-OWR-WQ, May 1998.
8. EPA Effluent Guidelines: N/A
9. TCEQ Ground-Water Impact Evaluation, Permit No. WQ0002296000, dated July 15, 2005.
10. 30 TAC Chapters 309 & 319.
11. Consistency with the Coastal Management Plan: N/A

PROCEDURES FOR FINAL DECISION

When an application is declared administratively complete, the Chief Clerk sends a letter to the applicant advising the applicant to publish the Notice of Receipt of Application and Intent to Obtain Permit in the newspaper. In addition, the Chief Clerk instructs the applicant to place a copy of the application in a public place for review and copying in the county where the facility is or will be located. This application will be in a public place throughout the comment period. The Chief Clerk also mails this notice to any interested persons and, if required, to landowners identified in the permit application. This notice informs the public about the application, and provides that an interested person may file comments on the application or request a contested case hearing or a public meeting.

Once a draft permit is completed, it is sent, along with the Executive Director's preliminary decision, as contained in the technical summary or fact sheet, to the Chief Clerk. At that time, Notice of Application and Preliminary Decision will be mailed to the same people and published in the same newspaper as the prior notice. This notice sets a deadline for making public comments. The applicant must place a copy of the Executive Director's preliminary decision and draft permit in the public place with the application. This notice sets a deadline for public comment.

Any interested person may request a public meeting on the application until the deadline for filing public comments. A public meeting is intended for the taking of public comment, and is not a contested case proceeding.

After the public comment deadline, the Executive Director prepares a response to all significant public comments on the application or the draft permit raised during the public comment period. The Chief Clerk then mails the Executive Director's Response to Comments and Final Decision to people who have filed comments, requested a contested case hearing, or requested to be on the mailing list. This notice provides that if a person is not satisfied

with the Executive Director's response and decision, they can request a contested case hearing or file a request to reconsider the Executive Director's decision within 30 days after the notice is mailed.

The Executive Director will issue the permit unless a written hearing request or request for reconsideration is filed within 30 days after the Executive Director's Response to Comments and Final Decision is mailed. If a hearing request or request for reconsideration is filed, the Executive Director will not issue the permit and will forward the application and request to the TCEQ Commissioners for their consideration at a scheduled Commission meeting. If a contested case hearing is held, it will be a legal proceeding similar to a civil trial in state district court.

If the Executive Director calls a public meeting or the Commission grants a contested case hearing as described above, the Commission will give notice of the date, time, and place of the meeting or hearing. If a hearing request or request for reconsideration is made, the Commission will consider all public comments in making its decision and shall either adopt the Executive Director's response to public comments or prepare its own response.

For additional information about this application contact Michael Sunderlin at (512) 239-4523.

Michael Sunderlin

8-09-2006

Michael Sunderlin

Date

ATTACHMENT B

PROPOSED TCEQ PERMIT NO. WQ0002296000

APPLICATION BY UNITED STATES DEPARTMENT OF ENERGY AND BWXT PANTEX, L.L.C. FOR PROPOSED TCEQ PERMIT NO. WQ0002296000	§ § § § §	BEFORE THE TEXAS COMMISSION ON ENVIRONMENTAL QUALITY

TEXAS COMMISSION ON ENVIRONMENTAL QUALITY
2008 JAN -4 PM 1:18
CHIEF CLERKS OFFICE

EXECUTIVE DIRECTOR'S RESPONSE TO PUBLIC COMMENT

The Executive Director of the Texas Commission on Environmental Quality (the Commission or TCEQ) files this Response to Public Comment (Response) on the application for a major amendment of Texas Pollutant Discharge Elimination System (TPDES) Permit No. WQ0002296000 to now become TCEQ Permit No. WQ0002296000 by the United States Department of Energy and BWXT Pantex, L.L.C. (Applicant or Pantex) and the Executive Director's preliminary decision. Pursuant to 30 Texas Administrative Code (TAC) § 55.156, before an application is approved and a permit issued, the Executive Director prepares a response to all timely, relevant and material, or significant comments. The Office of the Chief Clerk timely received comment letters from **Mavis Belisle**; **Addis Charless, Jr.**; **Danny and Bernice Detten**; **Jeff Detten**; **Mary Hochstein**; **Dana Koetting**; **Dale Livingston**; **J. Murphy**; **Jeri Osborne**; **Doris and Phillip Smith**; **Cletus Stein**; **C.E. Williams**, on behalf of the **Panhandle Groundwater Conservation District**; and the **Honorable Robert Duncan**. A public meeting was held on April 12, 2007. Formal oral comments were provided at the public meeting by **Mavis Belisle**; **Penni Clark**; **Don Hancock**; **Tonya Klenskens**; **Doris Smith**; **Jerry Stein**; and **C.E. Williams** on behalf of the **Panhandle Groundwater Conservation District**. This Response addresses all timely comments received, whether or not withdrawn.

BACKGROUND

Facility Description

The United States Department of Energy and BWXT Pantex, L.L.C., c/o National Nuclear Security Administration, P.O. Box 30030, Amarillo, Texas 79120-0030, operates a facility principally engaged in the assembly of nuclear weapons from components received from other Department of Energy plants; the fabrication of chemical high explosive components for nuclear weapons; surveillance testing and processing of chemical high explosives; disassembly of nuclear weapons; maintenance, modification, repair and nonexplosive testing of nuclear weapons components; and disposal of treated environmental restoration wastewater. The Applicant has applied to the Texas Commission on Environmental Quality (TCEQ) for a major amendment of TPDES Permit No. WQ0002296000, now to become TCEQ Permit No. WQ0002296000.

The requested amendments from the application would remove effluent limitations for ammonia (as N), high explosives, oil and grease, total suspended solids, total cyanide, total antimony, total arsenic,

total beryllium, total cadmium, total chromium, total cobalt, total lead, total mercury, total molybdenum, total nickel, total selenium, total silver, total thallium, and total titanium at Outfall 001; would increase effluent limitations for total copper, total manganese, and total zinc at Outfall 001; would authorize the use of a minimum of 21 days residence time as an alternative to chlorination requirements; and would cause the permit to be reissued only under state regulatory authority (the Texas Water Code) and not under federal regulatory authority (the Clean Water Act).

The draft permit does not incorporate all requested amendments from the application. There are no changes in flow restrictions or effluent limitations for high explosives, oil and grease, biochemical oxygen demand, chemical oxygen demand, or pH. The draft permit does change the effluent limitations for total suspended solids, total copper, total manganese, and total zinc, it also eliminates monitoring for ammonia, total cyanide, total antimony, total arsenic, total beryllium, total cadmium, total chromium, total cobalt, total lead, total mercury, total molybdenum, total nickel, total selenium, total silver, total thallium, and total titanium. The draft permit authorizes the use of a minimum of 21 days residence time as an alternative to chlorination requirements, and reissues the permit only under state regulatory authority and not under federal regulatory authority.

The current permit authorizes the discharge of domestic effluent and industrial effluent at a daily average flow not to exceed 560,000 gallons per day via Outfall 001.

The facility is located approximately 17 miles northeast of the City of Amarillo and 10 miles west of the City of Panhandle, west of Farm-to-Market Road 2373, south of Farm-to-Market Road 293 and north of U.S. Highway 60, in Carson County, Texas. The effluent is discharged to a playa lake, located adjacent to the watershed of McClellen Creek which flows into the North Fork Red River, in Segment No. 0224 of the Red River Basin. The designated uses for Segment No. 0224 are high aquatic life use and contact recreation.

Procedural Background

The application was received on March 8, 2005 and declared administratively complete on June 1, 2005. The Executive Director completed the technical review of the application on October 20, 2005, and prepared a draft permit. The Notice of Receipt of Application and Intent to Obtain a Water Quality Permit was published on June 23, 2005, in the *Amarillo Globe News* and in the *Panhandle Herald*. The Notice of Application and Preliminary Decision was published on September 7, 2006, in the *Amarillo Globe News* and in the *Panhandle Herald*. The Notice of Public Meeting was published on March 12, 2007, in the *Amarillo Globe News* and on March 15, 2007, in the *Panhandle Herald*. The public meeting was held on April 12, 2007, in Panhandle, Texas, at the Panhandle Elementary School Cafeteria. The public comment period ended on April 12, 2007, at the close of the public meeting. Since this application was administratively complete after September 1, 1999, it is subject to House Bill 801 (76th Legislature, 1999).

COMMENTS AND RESPONSES

COMMENT 1:

C.E. Williams, on behalf of the **Panhandle Groundwater Conservation District**, requests an explanation, in layman terms, of the differences between the proposed permit and the old (current) permit as it concerns both surface and groundwater. **Mr. Williams** believes there is a difference between surface and groundwater in how they are handled and in how the permit relates to them.

RESPONSE 1:

Both the current and proposed permits authorize the discharge of domestic wastewater and industrial wastewater via Outfall 001 at a daily average flow not to exceed 0.56 million gallons per day. The authorized flow rates and wastestreams are the same in both permits.

The current permit was issued as a TPDES permit authorizing a discharge to surface waters. The treated wastewater was required to meet applicable Texas Surface Water Quality Standards (TSWQS) through limitations designed to protect the playa's ability to maintain compliance with those standards.

The proposed permit was developed incorporating TCEQ's 1997 Playa Lake Policy Statement[1] which exempts certain discharges to playa lakes from having to comply with TSWQS based effluent limitations. The Playa Lake Policy Statement is part of the *Procedures to Implement the Texas Surface Water Quality Standards*. These implementation procedures were adopted by the TCEQ on August 23, 2002. They were subject to Environmental Protection Agency (EPA) review and approval in accordance with the Memorandum of Agreement between the TCEQ and EPA concerning the TPDES program. In a letter dated November 22, 2002, EPA approved the portion of the *Procedures to Implement the Texas Surface Water Quality Standards* containing the Playa Lake Policy Statement.

In order to help explain the differences between the current and proposed permit, it is necessary to give some historical information about the permitting process. Prior to 1998, a facility such as Pantex was required to obtain two permits for its wastewater discharge. The first permit came from the State of Texas and was a "state-only" permit. The second permit came from the EPA as part of the National Pollutant Discharge Elimination System (NPDES) program.

Prior to 1998, the Playa Lake Policy Statement was applied to "state-only" permits and provided an exemption to the Texas Surface Water Quality Standards (TSWQS). The Playa Lake Policy Statement states, "Except as otherwise provided in this policy, a permit, or order of the Commission, the discharge from any existing industrial or domestic wastewater treatment facility that is authorized to use and has used a playa lake, which does not feed into any surface water of the state, as a wastewater retention facility before July 10, 1991 . . . shall not be subject to meeting [the TSWQS] or other requirements for dischargers to waters in the state." Pantex had discharged to a playa lake prior

1 The Playa Lake Policy Statement can be found on page 152 of the *Procedures to Implement the Texas Surface Water Quality Standards* (available online at http://www.tceq.state.tx.us/files/rg-194.pdf_4005964.pdf) and is attached to this RTC as Attachment A.

to July 10, 1991.

However, the federal NPDES permit required compliance with the Texas Surface Water Quality Standards. The Clean Water Act gave federal jurisdiction over "waters of the United States," and Title 40 of the Code of Federal Regulations (CFR), Section 122.2, includes playa lakes in its definition of "waters of the United States." Therefore, the NPDES permit required the discharge to meet applicable water quality standards.

In 1998, EPA delegated the authority to implement the NPDES program to the State of Texas. At that time the two required permits were combined into one permit, a Texas Pollutant Discharge Elimination System (TPDES) permit. A facility such as Pantex was now only required to obtain the TPDES permit prior to discharging.

The Playa Lake Policy Statement states that "if a finding is made that a waste discharge into a playa of industrial or municipal waste (authorized before July 10, 1991) is subject to the TPDES program, any existing permit will be amended to include a reasonable compliance period [in order to meet TSWQS], consistent with other agency rules." In order to determine if a discharge to a playa lake is subject to the TPDES program, the Playa Lake Policy Statement states, "Such discharges are subject to the TPDES program if the playa is considered as waters of the United States."

As discussed above, 40 CFR, Section 122.2 includes playa lakes in its definition of "waters of the United States." Therefore, the discharge lost its exempted status and was subject to the TPDES program, and its TPDES permit required its discharge to meet applicable TSWQS.

On January 9, 2001, the United States Supreme Court issued a decision in *Solid Waste Agency of Northern Cook County (SWANCC) v. the United States Army Corps of Engineers*, 531 U.S. 159 (2001).[2] This ruling was followed by a June 19, 2006 ruling by the U.S. Supreme Court in the consolidated cases, *Rapanos v. United States* and *Carabell v. United States*, 126 S. Ct. 2208 (1996).[3] These cases changed the manner in which the definition of waters of the United States was interpreted.

These court cases narrowed the definition of navigable waters, consequently narrowing the definition of "waters of the United States." When this new interpretation of "waters of the United States" is applied to the Playa Lake Policy Statement, this particular Pantex playa is no longer considered as "waters of the United States," and is, therefore, not required to have federal authorization for its discharge. The exemption from the TSWQS that was applied to "state-only permits" before the 1998 delegation of the NPDES program is, once again, in effect for the draft permit.

The following is a summary of the changes between the current and draft permits:

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2 A copy of the decision is available online at:
http://supct.law.cornell.edu/supct/html/99-1178.ZS.html
3 A copy of the decision is available online at:
http://www.epa.gov/owow/wetlands/pdf/Rapanos_SupremeCourt.pdf

- The Applicant requested removal of the effluent limitations and/or monitoring requirements for ammonia (as N), total cyanide, total antimony, total arsenic, total beryllium, total cadmium, total chromium, total cobalt, total lead, total mercury, total molybdenum, total nickel, total selenium, total silver, total thallium, and total titanium at Outfall 001. In the case of the other constituents, other than ammonia, historical self reporting data indicates that these parameters are not present in the wastewater, making the continuation of these requirements unnecessary. The removal is based on the determination that the discharge to the playa lake is an exempted activity under the TCEQ's Playa Lake Policy Statement and surface water quality standards are not applicable to the playa lake. In the case of ammonia (as N), other effluent limits should adequately maintain the same level of protection as the federal technology-based limitations.

- The draft permit includes effluent limitations for total copper, total manganese, and total zinc at Outfall 001. The limitations are based on 30 TAC 319.22. This change has been made based on the determination that the discharge to the playa lake is an exempted activity under the TCEQ's Playa Lake Policy Statement and surface water quality standards are not applicable to the playa lake. Therefore, the requirements in 30 TAC, Chapter 319 apply.

- The proposed permit authorizes the use of a minimum of 21 days residence time as an alternative to chlorination requirements based on 30 TAC 317.6(c)(1) which states that chemical disinfection is not normally required when the total residence time in the wastewater treatment system (based on design flow) is at least 21 days.

- The proposed permit includes the most current standard language for permit requirements (minimum analytical levels (MALs) and standard boiler plate language).

- The proposed permit includes new Other Requirement Provision No. 13 (please see p. 13 of the draft permit) to clarify the definition of "daily maximum concentration" which states:

  > Definitions and Standard Permit Conditions, Item 2.c., daily maximum concentration, is amended as follows:
  >
  > Daily maximum concentration - the maximum concentration measured on a single day, by the sample type specified in the permit, within a period of one calendar month (when required monitoring frequency is equal to or more frequent than once per month) or within the period equivalent to the specified monitoring frequency (when required monitoring frequency is less frequent than once per month).

For additional review, a table showing a comparison of the current and draft permit is attached as Attachment B.

COMMENT 2:

Multiple commentors at the public meeting commented on general concerns over groundwater. **Jeri Osborne, Dana Koetting, Mary Hochstein, Jeff Detten, Dale Livingston, Cletus Stein, Mavis Belisle, Danny and Bernice Detten**, and **J. Murphy** state that the discharges from Pantex to ditches and playas have caused contamination of the perched aquifer and pose a risk of contamination of the Ogallala Aquifer, if such contamination has not already taken place. **Doris and Phillip Smith** state that they know of groundwater contamination issues, which are already prevalent, not only on-site, but also off-site. **Addis Charless, Jr.**, states that the playa lake sits above a perched aquifer that is obviously connected to the Ogallala Aquifer below. **Doris Smith** is concerned with what is happening with the water in her area and is concerned about contamination to the perched aquifer and the Ogallala Aquifer. **Ms. Smith** states that, at Pantex, the playas that are on site are a source of recharge to the Ogallala Aquifer. **Penni Clark** is also very concerned about the groundwater for current and future generations.

RESPONSE 2:

Pantex has been conducting remedial activities on the perched aquifer since 1995. Pantex is required to achieve the remedial action objective defined for the perched aquifer to the satisfaction of the TCEQ and the EPA. The remedial action objectives for the perched aquifer are still under review by the EPA and the TCEQ as part of the "Corrective Measures Study/Feasibility Study" report. Pantex is required to perform interim stabilization measures on the perched aquifer per TCEQ Compliance Plan No. 50284.

To date, no constituents have impacted the Ogallala Aquifer in recognizable or definitive patterns. It is anticipated that the continued remediation activities of the perched aquifer and the long-term monitoring of the Ogallala Aquifer will help prevent any adverse impact to the Ogallala Aquifer.

With respect to the issue that discharges into the playa will recharge the perched aquifer and thence the Ogallala Aquifer, it is not anticipated that the discharges regulated by the proposed permit will cause any additional adverse impact to the quality of the Ogallala Aquifer. If the wastewater discharge under the proposed permit were to migrate into the vicinity of the perched aquifer, it is anticipated that the on-going groundwater remediation activities would prevent any contaminants from migrating down to the Ogallala Aquifer.

COMMENT 3:

Jeri Osborne, Dana Koetting, Mary Hochstein, Jeff Detten, Dale Livingston, Cletus Stein, Mavis Belisle, Danny and Bernice Detten, and **J. Murphy** state that the proposed permit will allow increased discharges of contaminated water with increased levels of contamination into the playa. **Doris and Phillip Smith** state that to further contaminate this large expanse of groundwater by depositing more water into the playa is unpardonable. They state that the playa poses one of the greatest threats to the Ogallala Aquifer at the present time, and ask why would anyone want to

compound the clean-up issues by putting more water into this playa? **Doris and Phillip Smith** also state that the proposed permit will allow increased discharges of contaminated water with increased levels of contamination into the playa. **C.E. Williams,** on behalf of the **Panhandle Groundwater Conservation District,** states that the application raises serious concerns to the Panhandle Groundwater Conservation District due to the potential risk of introducing additional contaminants affecting the land, surface water, and groundwater.

RESPONSE 3:

The draft permit maintains the same volume of permitted flows that are established in the current wastewater discharge permit. There will be no increase to the authorized quantity of wastewater that can be discharged via Outfall 001 into the playa.

The draft permit includes increased effluent limitations for total copper, total manganese, and total zinc at Outfall 001 and removes effluent limitations for ammonia (as nitrogen), cyanide, total arsenic, total chromium, total lead, total nickel, total thallium, and total titanium at Outfall 001. The effluent limitations for total suspended solids (TSS) have also been altered. The October-February seasonal limits for TSS have been changed to match the March – September seasonal limits of 60 mg/L daily average and 90 mg/L daily maximum. Ammonia (as nitrogen) will be controlled through other limited parameters that are continued in the draft permit. The remaining constituents, for which effluent limitations have been removed, have not been detected in the effluent.

These changes are based on the determination that the discharge to the playa lake falls under the exemption contained in the TCEQ's Playa Lake Policy Statement, and therefore, surface water quality standards are not applicable to the playa lake. For more information on the exempted status of the discharge, refer to Response No. 1.

The permittee will be required to perform an analysis for all possible contaminants contained in the discharge and report the results to the TCEQ whenever the permit needs to be renewed or a major amendment is requested.

For the reasons discussed above and in Response No. 2, these changes are not expected to pose any additional risk to the groundwater quality of the perched aquifer or of the Ogallala Aquifer.

COMMENT 4:

Mavis Belisle believes that there is not adequate justification for discharges to the playa that she believes result in the contamination of both the perched aquifer, and if not today, then tomorrow, of the Ogallala Aquifer. **Ms. Belisle** states that contamination will build up because she knows it is in the soils.

RESPONSE 4:

It is the ED's understanding that the contamination at the Pantex plant site is a result of historical activities that are no longer conducted in the same manner at the facility today. Current facility operations, subject to regulation under this permit, should not have any adverse impact to surface waters or groundwaters in conjunction with current corrective action activities.

COMMENT 5:

Jeri Osborne, Dana Koetting, Jeff Detten, Mavis Belilse, and **Danny** and **Bernice Detten** state that the "contamination" or "proposed modification" would increase risks to their health and the health of their families.

RESPONSE 5:

The proposed changes in the draft permit are not expected to increase risks to the health of the adjacent property owners and other users of the Ogallala Aquifer. The effluent limitations proposed in the draft permit are consistent with applicable agency rules, regulations, and policies which have been developed and are implemented to be protective of human health and the environment.

For a discussion of possible groundwater effects due to the proposed discharge, refer to Response No. 2 and Response No. 3.

Regarding possible health risks from exposure to the playa itself, the playa is located on a highly secured federal facility and is not accessible to the public for swimming, fishing, or other recreational activities.

COMMENT 6:

Concerns were raised regarding possible negative impacts to property value and a landowner's ability to use his or her property. **Jeri Osborne, Dana Koetting, Mavis Belilse**, and **Danny and Bernice Detten** state that the "contamination" or "proposed modification" would increase risks to the value of their property. **Danny and Bernice Detten** state that the proposed modification increases risks on the value of the landowners' property. They state that their son and his family previously lived on the property. Pantex paid for their relocation; however, the property cannot be sold for fair market value. **Jeff Detten** states that there is a possible detrimental effect on the value of his property due to the proposed modification. **Mary Hochstein, Dale Livingston, Cletus Stein**, and **J. Murphy** state that the "contamination" or "proposed modification" would increase risks to their ability to use their property.

RESPONSE 6:

TCEQ's jurisdiction in a wastewater permit application is limited to the issues set out in Chapter 26 of the Texas Water Code. TCEQ does not have jurisdiction to consider property values when reviewing an application for a wastewater permit, nor does the TCEQ have zoning authority. Except

under limited circumstances, not implicated under this permit application, the issuance of a permit cannot be denied on the basis of the facility's location.

COMMENT 7:

Multiple commentors at the public meeting commented on the removal of effluent limitations for hexavalent chromium from the draft permit. **Doris Smith** is concerned with what is being proposed in the draft permit. She states that she knows for sure that chromium has been in the perched aquifer and that it has already gone off of the east side of the south east side of Pantex and has been detected in the Ogallala well of the neighbor just to the east of Pantex. **Mavis Belisle** states that there is absolutely no justification for not imposing limitations on chromium discharges into the water, particularly hexavalent chromium which is clearly linked to Pantex operations. **Ms. Belisle** states that limits need to be stringent and need to be carefully monitored. **Ms. Belisle** states that chromium needs to be eliminated in all cases. **Addis Charless, Jr.**, states that hexavalent chromium has been recently discovered in the Ogallala Aquifer on property immediately adjacent to Pantex.

RESPONSE 7:

To date, there has been no reproducible and verifiable data to support the position that the Ogallala Aquifer has been contaminated with hexavalent chromium.

During a quarterly Pantex public meeting in September 2006 (not the public meeting for this permit application), Mr. and Mrs. Koetting presented laboratory analytical results for hexavalent chromium associated with an Ogallala Aquifer groundwater sample collected from their residential water well. Upon review of the results, the TCEQ determined that the groundwater sample was not analyzed by the appropriate analytical method, and was also reported as a "non-detect" result. The TCEQ Region 1 office elected to follow up on Mr. and Mrs. Koetting's concern about a potential impact to the Ogallala Aquifer on their property by collecting Ogallala Aquifer samples from their residential well and analyzed the samples for chromium, hexavalent chromium, metals, and explosives. An impact to the Koetting's Ogallala well from a Pantex release was not confirmed upon conclusion of a TCEQ Technical Support Section review of the data collected by the TCEQ Region 1 office.

Two follow-up samples taken by the TCEQ Region 1 Office yielded one sample with a detectible result for hexavalent chromium but was non-detect for a total chromium result; and a second sample which was non-detect for both hexavalent and total chromium. Since the hexavalent chromium concentration cannot be more than the respective total chromium concentration, the hexavalent chromium result of the first sample is not considered reliable.

The lack of reproducible results has called the original result into question. Without reproducible results, the data used in the original result is deemed unreliable to demonstrate that the Ogallala Aquifer has been contaminated with hexavalent chromium.

The Applicant has conducted effluent monitoring for total chromium for the current permit term. In

this period of time, none of the samples have shown any detectable amounts of total chromium in their wastewater. Hexavalent chromium is a component of total chromium. Therefore, because total chromium has been shown to be non-detectable in the wastewater, hexavalent chromium is expected to be non-detectable as well. Based on modeling results indicating that total chromium is not present in the wastewater, the ED has removed the effluent limit for hexavalent chromium.

The permittee will be required to perform an analysis for all possible contaminants contained in the discharge and report the results to the TCEQ whenever the permit needs to be renewed or a major amendment is requested.

COMMENT 8:

C.E. Williams, on behalf of the **Panhandle Groundwater Conservation District,** requests that, for the effluent limitations and/or monitoring requirements that are proposed to be removed from the draft permit, the TCEQ consider a sampling period for the constituents for 2 or 5 years. **Doris Smith** is concerned about the discontinued monitoring requirements in the draft permit.

RESPONSE 8:

The parameters that are no longer required to be monitored in the draft permit were removed because they are not considered to be potential contaminants to the local groundwater resources. Parameters that were removed were either non-detectable in the historical self-reporting data or were not considered a pollutant of concern based on the current corrective action plan for the perched aquifer.

The Applicant has established a record of five years of monitoring with no analytical results above the specified detection levels for the following pollutants: total cyanide, total antimony, total arsenic, total beryllium, total cadmium, total chromium, total cobalt, total lead, total mercury, total molybdenum, total nickel, total selenium, total silver, total thallium, and total titanium at Outfall 001. The Executive Director's staff accepts this record as an adequate demonstration that these parameters are not expected to be present in the discharge in anything but trace levels and that the effluent limitations and/or monitoring requirements are not necessary.

In the case of ammonia (as N) at Outfall 001, the effluent limitations and monitoring requirements were removed because other limited parameters that are continued in the draft permit adequately maintain technology-based limitations for the treatment technology required in the permit. Effluent limitations and monitoring requirements for ammonia (as N) were previously established in the current permit based on the protection of the surface water quality standard criteria for dissolved oxygen for the playa. As part of the technical review process for this application, it was determined that the discharge to the playa lake is an exempted activity under the TCEQ's Playa Lake Policy Statement and that surface water quality standards are not applicable to the playa lake. For more information regarding the exempted status of the discharge, refer to Response No. 1.

In addition, the permittee will be required to perform an analysis for all possible contaminants

contained in the discharge and report the results to the TCEQ whenever the permit needs to be renewed or a major amendment is requested.

COMMENT 9:

Multiple commentors at the public meeting commented on the public notice of the draft permit.

Mavis Belisle states, "I would like to raise some additional comments about the notification for the meeting. In the section in which my name is listed, again, some of the addresses are the old addresses before the 9/11 notification. At least 2 pieces of the property have changed ownership and not within the last year, more than 5 years ago, at least 3 of the people are dead, and there are new land owners and residences in those properties and I don't know very much about the residences around the plant, but those who are my immediate neighbors, I do know that at least 3 households who should've been notified were not, and I'm not sure what that does to the legalities of this process. I'd like to question that."

Doris Smith states, "I also would like to state that there were several landowners that surround the facility that did not get noticed and I'm not certain how the list was compiled, but if there was a possibility that you could go and look at the county records of who the land owners are, I think you would come up with more names and even the correct address because so many of the addresses have been changed because of 9/11 and so some people might not even have gotten the letter because I know the address on all of our mail we received, I mean the neighbors, was to the old HCR post office address so I think that probably needs to be a little bit more of research done."

RESPONSE 9:

As part of the application process, the Applicant is required to provide the agency with a list of all adjacent landowners to the subject facility at the time the application is filed. It is the responsibility of the Applicant to ensure the accuracy of the list. The TCEQ has not required an Applicant to update a landowner list to reflect changes in ownership after the application is filed.

COMMENT 10:

Don Hancock made the following recommendation to the TCEQ in regard to the relationship of the two wastewaters permits (WQ0002296000 and WQ0004397000) that are issued to Pantex: "A suggestion that . . . I would like to put on the record for both TCEQ and the Applicant to consider for the future is that the future renewals of [both permits] be put on coinciding [schedules] because there are concerns that relate to one or [the other] when they are not on the same cycle. It's not at all impossible or contrary to any regulations, as far as I know, to do that in the future. I would urge both TCEQ and the Applicant to consider that for [the] future. I understand that this can't be done at this particular time and that's just a suggestion for the future."

RESPONSE 10:

The proposed expiration date for proposed TCEQ Permit No. WQ0002296000 (the discharge permit) is December 1, 2010. The expiration date of current permit number WQ0004397000 (the irrigation permit) is also December 1, 2010. The expiration dates are based on the basin permitting schedule for the North Fork Red River (Segment No. 0224 of the Red River Basin) which is the drainage basin in which this facility is located.

In accordance with TCEQ regulations, the irrigation permit may be issued for a term up to 10 years in length and the discharge permit may be issued for a term up to five years in length. The possible permit expiration dates for future renewals of the irrigation permit are December 1, 2020; December 1, 2030; December 1, 2040; etc. The projected permit expiration dates for future renewals of the discharge permit are December 1, 2015; December 1, 2020; December 1, 2025; etc. Therefore, it is possible that the two permits could come in for renewal or amendment and be processed together once every 10 years, depending upon the specific expiration dates, assuming the Applicant does not seek to amend its permit in the future.

COMMENT 11:

Penni Clark is concerned about the higher amounts of metals and chemicals going into the irrigation system and believes that there needs to be some accountability for the crop uptake and whether or not the crops are safe for animals and human beings.

RESPONSE 11:

The discharge permit does not authorize or regulate the irrigation operations that take place at the Pantex facility. Those operations are authorized and regulated in the irrigation permit. Crop uptake of pollutants via irrigation operations is an issue that would be relevant to the irrigation permit, but not the proposed discharge permit for this application.

COMMENT 12:

Jerry Stein states that if there are savings to be made by Pantex because of the changes in the draft permit, then he would like to know how much the savings are.

RESPONSE 12:

A review of the base analytical costs for the removed parameters estimates a base annual savings of approximately $3000. This estimate is based on the general analytical costs for services from commercial laboratories in the State of Texas. There are other expenditures related to analytical testing (staff time for taking samples, reviewing and managing data, etc.) for which additional savings cannot be estimated by the Executive Director's staff.

COMMENT 13:

Jerry Stein asks what would happen if Pantex buys land east of where it is now. **Mr. Stein** questions if some of the land is drilled, will the water go into this system?

RESPONSE 13:

The draft permit authorizes a discharge of domestic effluent and industrial effluent via Outfall 001 at a daily average flow that shall not exceed 0.56 million gallons per day. One of the wastestreams authorized to be discharged (under the definition of industrial effluent) is treated wastewaters from environmental remediation activities. Wastewaters generated from environmental remediation activities from this land (if owned by the permittee) are authorized to be discharged via the proposed permit provided it complies with all terms and conditions of the permit as issued.

COMMENT 14:

Tonya Klenskins is concerned about the removal of this permit from regulatory coverage under the Clean Water Act. **Ms. Klenskins** states that while the playa does not have flow to navigable waters, that fact has nothing to do with environmental flows in the Panhandle. **Ms. Klenskins** states that environmental flows in the Panhandle do not all include flow to a moving stream and that sometimes the flows include groundwater. **Ms. Klenskins** states that while people understand that this permitting process is covered specifically by TCEQ as a surface water concern, playas definitely are involved in more issues than surface water, and that there are some groundwater issues and some very untested concerns about how discharges affect groundwater and the speed of flow. **Ms. Klenskins** states that, for the State of Texas, this is a new area of concern with the ruling by the Supreme Court over the Clean Water Act and that this is a time where the issues of playa lakes and groundwater discharges need to be carefully examined.

RESPONSE 14:

In the permitting process, jurisdiction over groundwater protection is exercised by Texas under state law, not under the Clean Water Act. The fact that the draft permit was written as a "state only" permit, did not eliminate any groundwater considerations during the development of the draft permit. As a general matter, groundwater is not within the definition of "waters of the United States," under the Clean Water Act and the Code of Federal Regulations.

COMMENT 15:

Doris Smith is concerned that the playas are not being considered as the important element that they are in the area, and that they are being treated the same as the playas all over the Midwest. **Ms. Smith** believes that if someone would look into the study of the playas of the High Plains, they would see that the playas are definite rechargers of the Ogallala Aquifer. **Ms. Smith** also states, "I just wanted to enter into the record, and I don't know that you gentlemen are aware of a study that was done by the Bureau of Economic Geology, 1997, *The Playas and the Recharge of the Ogallala Aquifer on the*

Southern High Plains of Texas, and it very well states in [the study] exactly what's happening with our Playas and why we are so concerned. And I would really like you all to take note of this that was put out by the Bureau of Economic Geology as well in 1993-1994. The Bureau of Economic Geology put out some milestone reports with regard to the study that they were doing on the Pantex side of the playas and Bill Mullican was one of the writers of the milestone reports as he was also one of the authors of this particular book that was put out. I would just like that to be entered into the record as for something we would like for you to check into."

RESPONSE 15:

Studies, specific to the Pantex site, show that surface water accumulates in playas and is focused downward where the groundwater accumulates on an intermediate confining layer. The intermediate confining layer is located above the main saturated portion of the Ogallala Aquifer. The occurrence of groundwater accumulating or "perching" on an intermediate confining layer above a saturated section is called "perched" groundwater.

Intermediate depth wells monitor the accumulation of perched groundwater on this confining layer. Contaminants associated with the Pantex operation are found in the playa sediments and the perched groundwater mounded on the intermediate confining layer. Additional monitoring wells are completed deeper below the intermediate depth confining layer into the Ogallala Aquifer and, at the present time, do not show the contaminants associated with the Pantex operation. The intermediate confining layer appears to prevent recharge to the main saturated section of the Ogallala Aquifer.

In summary, the Pantex playa accumulates and focuses surface water downward where recharge and accumulation on top of an intermediate confining layer prevents recharge to deeper Ogallala sediments.

Furthermore, remediation monitoring wells will be located down gradient from the permitted playa discharge outfall. The intent of the remediation monitoring wells will be to withdraw and reduce the contaminated groundwater mound from the intermediate depth confining layer. The groundwater will undergo a process to reduce the contaminants and be returned to surface water impoundments. The remediation process is expected to have the effect of limiting the lateral spread of the contaminated mound and reducing the volume of perched groundwater accumulating on the intermediate confining layer.

As suggested by the commentor, the following groundwater studies, carried out by the Bureau of Economic Geology, were reviewed and do not contradict the specific fact finding performed by the Executive Director's staff during their technical review:

- Thomas C. Gustavson, Vance T. Holliday, and Susan D. Hovorka, 1995, Bureau of Economic Geology Report of Investigations No. 229, "Origin and Development of Playa Basins, Sources of Recharge to the Ogallala Aquifer, Southern High Plains, Texas and New Mexico."

- W.F. Mullican III, N.D. Johns, and A.E. Fryar, 1997, Bureau of Economic Geology Report of Investigations No. 242, " Playas and Recharge of the Ogallala Aquifer on the Southern High Plains of Texas-An Examination Using Numerical Techniques."

- Bridget R. Scanlon, Richard S. Goldsmith, and W.F. Mullican III, 1997, Bureau of Economic Geology Report of Investigations No. 243, "Spatial Variability in Undersaturated Flow Beneath Playa and Adjacent Interplaya Settings and Implications for Contaminant Transport, Southern High Plains, Texas."

COMMENT 16:

Jerry Stein was informed that the constituents, for which monitoring requirements were proposed to be removed in the draft permit, would be analyzed and reported each time the permit comes up for renewal or when an application for amendment is made. **Mr. Stein** wants to know how often that would be.

RESPONSE 16:

A complete effluent analysis is required anytime an application for a renewal or a major amendment of the permit is submitted. Since the permit is on a five year basin permitting cycle, the effluent analysis should occur at a minimum of once every five years.

COMMENT 17:

Tonya Klenskins is concerned that there could be some "cross purposes" with the Pantex compliance agreements and the development of the draft permit.

RESPONSE 17:

There are no conflicts within the different regulatory programs for which the TCEQ has oversight of at the Pantex facility. The permittee must always comply with the requirements of all permits, applicable rules/regulations, Commission issued orders, corrective action plans, etc. If the provisions of two or more regulatory requirements from different program areas apply to a specific common activity, then Pantex would have to comply with all applicable requirements, insuring that the most protective requirement is met.

COMMENT 18:

Mavis Belisle states, "If the Plant believes it needs to discharge to Playa 1 on an emergency basis, or to have that capability to discharge on Playa 1 on an emergency basis, that should be what the permit allows rather than this routine discharge into the Playas, and those emergency situations should be clearly defined and circumstances described in the permit and some recording of that necessity

should [also] be included in [the draft permit]."

RESPONSE 18:

Even though it has been represented by Pantex that the primary method for wastewater disposal is by subsurface drip irrigation of on-site property as regulated by the irrigation permit and the discharge of wastewater to the playa is the secondary method of wastewater disposal, the discharge permit was developed on the basis that the two permits are independent and separate from each other. As such, the permit conditions were developed based on the assumption that wastewater is discharged to the playa at the limitations specified in the permit. Under that scenario, the draft discharge permit complies with all applicable rules and regulations. No conditions that limit when discharges can occur are necessary and are, therefore, not included in the draft permit.

COMMENT 19:

Mavis Belisle believes that the draft permit does not meet the best technology standards.

RESPONSE 19:

Effluent limitations established in the proposed permit do meet best available technology standards. In the absence of applicable EPA categorical guidelines, technology-based effluent limitations are based on best professional judgment (BPJ), which is the case in this permit action.

Effluent limitations for biochemical oxygen demand (5-day), total suspended solids, chemical oxygen demand, oil and grease, high explosives (HMX, RDX, PETN, and TNT), and pH are continued from the current TPDES permit and were previously based on BPJ. The limitations for biochemical oxygen demand (5-day), total suspended solids, chemical oxygen demand, oil and grease, and pH are consistent with the limitations established in other wastewater permits in the absence of an applicable EPA categorical guidelines or other agency rules. The limitations for high explosives (HMX, RDX, PETN, and TNT) were continued after research failed to yield a basis for revised limitations.

Effluent limitations and monitoring requirements for total residual chlorine were continued from the previous TPDES permit and based on disinfection requirements for treated sanitary wastewater. These limitations and monitoring requirements are only required when the permittee cannot maintain a minimum residence time in the treatment system of 21 days before discharge via Outfall 001. The 21 days residence time requirement is based on 30 TAC 317.6(c)(1).

Effluent limitations and monitoring requirements for total copper, total manganese, and total zinc at Outfall 001are based on 30 TAC §319.22.

COMMENT 20:

Mavis Belisle believes that the draft permit does not meet quality water standards for the way the water is used and will be used in the future.

RESPONSE 20:

As part of the technical review process for this application, it was determined that the discharge to the playa lake is an exempted activity under the TCEQ's Playa Lake Policy Statement and that the surface water quality standards (Title 30 TAC Chapter 307) are not applicable to the playa lake. For more information concerning the exempted status of the discharge, refer to Response No. 1.

The only other applicable regulations for this discharge to a surface water are the following:

- 30 TAC §317.6(c)(1) serves as the basis for the effluent limitations and monitoring requirements for total residual chlorine at Outfall 001. The inclusion of these limitations is based on disinfection requirements for treated sanitary wastewater. These limitations and monitoring requirements are only required when the permittee cannot maintain a minimum residence time in the treatment system of 21 days before discharge via Outfall 001.

- 30 TAC §319.22 serves as the basis for the effluent limitations and monitoring requirements for total copper, total manganese, and total zinc at Outfall 001.

COMMENT 21:

Mavis Belisle commends the TCEQ for disallowing a request to drop the monitoring for high explosives. **Ms. Belisle** believes it was a good decision.

RESPONSE 21:

The Executive Director acknowledges the comment.

COMMENT 22:

Mavis Belisle states that the draft permit does not conserve Texas' limited water resources in an adequate way. **Ms. Belisle** states that the discharge limitations, both daily maximum and average, are not justified, and do not meet the goal of eliminating such discharges.

RESPONSE 22:

The effluent limitations proposed in the draft permit are consistent with applicable agency rules, regulations, and policies which have been developed and are implemented to be protective of human health and the environment, including water resources. The authorized flow rates and wastestreams have not been increased in the draft permit.

The limitations contained in the draft permit are consistent with the guidance provided in the *Procedures to Implement the Texas Surface Water Quality Standards.* These implementation procedures were adopted by the TCEQ on August 23, 2002. They were subject to EPA review and approval in accordance with the Memorandum of Agreement between the TCEQ and EPA concerning the TPDES program. In a letter dated November 22, 2002, EPA approved the portion of the *Procedures to Implement the Texas Surface Water Quality Standards* containing the Playa Lake Policy Statement.

COMMENT 23:

Doris Smith would like to see the state become more conscious of the playas in the area, and treat them separately, not just as a group of playas all over the United States.

RESPONSE 23:

Even though the agency rules and policies that are applicable to this draft permit are applied on a state-wide basis, the regulatory requirements in the draft permit were established after a site specific review of the Pantex facility.

COMMENT 24:

Doris Smith wants the state to continue to monitor very closely what is going on at Pantex and to be very aware that the water is precious to the people in the area.

RESPONSE 24:

With respect to the activities regulated by all TCEQ permits for the Pantex facility, the TCEQ will continue to monitor Pantex's compliance with the requirements of those permits and any potential impact those regulated activities may have to human health and the environment.

COMMENT 25:

Tonya Klenskins requested a contested case hearing during the formal oral comment period of the public meeting.

RESPONSE 25:

Requests for a contested case hearing must be in writing, in addition to meeting certain other requirements. 30 TAC §55.201 requires that a request for a contested case hearing comply with the following: (1) Be in writing; (2) Be timely filed; (3) Request a contested case hearing; (4) Give the name, address, daytime telephone number, and, where possible, fax number of the person who files the request; (5) Provide any other information specified in the public notice of application; and (6) List all relevant and material disputed issues of fact that were raised during the public comment

period and that are the basis of the request.

The Office of the Chief Clerk will mail this Response to Public Comment to everyone who submitted public comments and to those persons on the mailing list for this particular application. Instructions on how to request a contested case hearing or make a request for reconsideration will be included in a letter that will be attached to this document.

Additional information about the process can be obtained by calling the Office of Public Assistance, toll fee, at 1-800-687-4040.

No changes to the draft permit have been made.

Respectfully submitted,

Texas Commission on
Environmental Quality

Glenn Shankle
Executive Director

Robert Martinez, Director
Environmental Law Division

Marc Friberg, Staff Attorney
Environmental Law Division
State Bar No. 24048472
P.O. Box 13087, MC 173
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Representing the Executive Director of the Texas Commission on Environmental Quality

ATTACHMENT
A

Playa Lake Policy Statement

Except as otherwise provided in this policy, a permit or order of the Commission, the discharge from any existing industrial or domestic wastewater treatment facility that is authorized to use and has used a playa lake, which does not feed into any surface water of the state, as a wastewater retention facility before July 10, 1991, the effective date of TNRCC adoption of related revisions to the Texas Surface Water Quality Standards, 30 TAC Chapter 307, shall not be subject to meeting such standards or other requirements for discharges to waters in the state. However, additional requirements may be imposed in existing permits so that such discharges shall not create a nuisance or otherwise impair public health, nor cause contamination of groundwater. Such requirements include, but are not limited to, the prohibition of the discharge of raw, untreated wastewater into a playa.

Accordingly, public access to the playa lake shall be limited (e.g., by fencing and/or "no trespassing" signs) and applicable buffer zones shall be required. Additionally, because of the uncertainty of the impermeability and durability of the natural clay liner found on the bottom of a playa lake, as well as the exact location and depth of the underlying water table, groundwater quality monitoring and reporting shall be a condition of the permit or permit renewal. If groundwater contamination from the discharge is detected, a corrective action plan shall be developed and remediation measures shall be required.

If the wastewater is used for irrigation, the discharge must also meet applicable treatment levels and application rates based upon soil depth and characteristics, topography, whether the land has been plowed, crop uptake rates, and other relevant factors.

New discharges to playa lakes not previously authorized to be used as wastewater treatment or retention facilities before July 10, 1991, shall meet applicable surface water quality standards in addition to the groundwater protection requirements above. Additionally, if a finding is made that a waste discharge into a playa of industrial or municipal waste (authorized before July 10, 1991) is subject to the TPDES program, any existing permit will be amended to include a reasonable compliance period, consistent with other agency rules. Such discharges are subject to the TPDES program if the playa is considered as waters of the United States. Unclassified playa shall be presumed to have the same standards as that for an unclassified intermittent water body until more specific standards are established for this water in the state.

Dan Pearson, Executive Director
TNRCC

10/20/97
Date

ATTACHMENT
B

PARAMETER	CURRENT PERMIT Dly Avg mg/l	CURRENT PERMIT Dly Max mg/l	PROPOSED PERMIT Dly Avg mg/l	PROPOSED PERMIT Dly Max mg/l	COMPARISON OF CURRENT & PROPOSED DRAFT PERMITS
Flow	0.56 MGD	0.82 MGD	0.56 MGD	0.82 MGD	Same
Biochemical Oxygen Demand (5-day)	30	70	30	70	Same
Chemical Oxygen Demand	N/A	150	N/A	150	Same
Ammonia (as N) [Apr-Sep]	5	10	------	------	Limits and monitoring requirements removed
Ammonia (as N) [Oct-Mar]	10	15	------	------	Limits and monitoring requirements removed
Total Suspended Solids [Oct-Feb]	30	60	60	90	Limits increased
Total Suspended Solids [Mar-Sep]	60	90	60	90	Same
Oil and Grease	N/A	15	N/A	15	Same
Total Cyanide	N/A	0.02	------	------	Limits and monitoring requirements removed
Antimony (total)	Report	Report	------	------	Monitoring requirements removed
Arsenic (total)	0.019	0.030	------	------	Limits and monitoring requirements removed
Beryllium (total)	Report	Report	------	------	Monitoring requirements removed
Cadmium (total)	Report	Report	------	------	Monitoring requirements removed
Chromium (total)	0.043	0.055	------	------	Limits and monitoring requirements removed
Cobalt (total)	Report	Report	------	------	Monitoring requirements removed
Copper (total)	0.033	0.046	0.50	1.0	Limits increased
Lead (total)	0.172	0.229	------	------	Limits and monitoring requirements removed
Manganese (total)	0.439	0.557	1.0	2.0	Limits increased
Mercury (total)	0.0003	0.0007	------	------	Limits and monitoring requirements removed
Molybdenum (total)	Report	Report	------	------	Monitoring requirements removed
Nickel (total)	0.042	0.055	------	------	Limits and monitoring requirements removed
Selenium (total)	Report	Report	------	------	Monitoring requirements removed
Silver (total)	Report	Report	------	------	Monitoring requirements removed
Thallium (total)	0.372	0.588	------	------	Limits and monitoring requirements removed
Titanium (total)	0.372	0.727	------	------	Limits and monitoring requirements removed
Zinc (total)	0.115	0.142	1.0	2.0	Limits increased
HMX	0.1	Report	0.1	Report	Same
RDX	0.2	Report	0.2	Report	Same
PETN	0.4	Report	0.4	Report	Same
TNT	0.02	Report	0.02	Report	Same
Chlorine Residual (after 20 minutes)	1.0	4.0	1.0	4.0	Added option for 21 days retention time in lieu of chlorination
pH	6.0 su (min)	10.0 su	6.0 su (min)	10.0 su	Same

CERTIFICATE OF SERVICE

I hereby certify that on January 4, 2007, the original of the "Executive Director's Response to Comments" on the United States Department of Energy and BWXT Pantex, L.L.C., application for proposed TCEQ Permit No. WQ0002296000 was filed with Office of the Chief Clerk, Texas Commission on Environmental Quality, Austin, Texas.

Marc Friberg, Staff Attorney
Environmental Law Division
Texas Commission on Environmental Quality

TEXAS COMMISSION ON ENVIRONMENTAL QUALITY
2007 JAN -4 PM 3:59
CHIEF CLERKS OFFICE

ATTACHMENT C

Compliance History

Customer/Respondent/Owner-Operator:	CN601599103	BWXT Pantex, LLC	Classification: AVERAGE	Rating: 2.60
Regulated Entity:	RN100210756	US DEPARTMENT OF ENERGY PANTEX PLANT	Classification: AVERAGE	Site Rating: 0.58

ID Number(s):

INDUSTRIAL AND HAZARDOUS WASTE STORAGE	PERMIT	50284
INDUSTRIAL AND HAZARDOUS WASTE STORAGE	PERMIT	50276
INDUSTRIAL AND HAZARDOUS WASTE STORAGE	PERMIT	50284
INDUSTRIAL AND HAZARDOUS WASTE TRANSPORTATION	EPA ID	TXP490073137
INDUSTRIAL AND HAZARDOUS WASTE TRANSPORTATION	SOLID WASTE REGISTRATION # (SWR)	40807
INDUSTRIAL AND HAZARDOUS WASTE GENERATION	EPA ID	TX4890110527
WASTEWATER	PERMIT	WQ0002296000
WASTEWATER	PERMIT	TX0107107
WASTEWATER	PERMIT	WQ0004397000
AIR NEW SOURCE PERMITS	PERMIT	18379
AIR NEW SOURCE PERMITS	PERMIT	21233
AIR NEW SOURCE PERMITS	PERMIT	32674
AIR NEW SOURCE PERMITS	PERMIT	40871
AIR NEW SOURCE PERMITS	PERMIT	41577
AIR NEW SOURCE PERMITS	PERMIT	43702
AIR NEW SOURCE PERMITS	PERMIT	48297
AIR NEW SOURCE PERMITS	ACCOUNT NUMBER	CF0019W
AIR NEW SOURCE PERMITS	PERMIT	53378
AIR NEW SOURCE PERMITS	PERMIT	53377
AIR NEW SOURCE PERMITS	AFS NUM	4806500003
AIR NEW SOURCE PERMITS	PERMIT	70894
AIR NEW SOURCE PERMITS	REGISTRATION	71250
AIR NEW SOURCE PERMITS	REGISTRATION	72373
AIR NEW SOURCE PERMITS	REGISTRATION	52638
AIR NEW SOURCE PERMITS	PERMIT	52639
AIR NEW SOURCE PERMITS	REGISTRATION	76468
AIR NEW SOURCE PERMITS	REGISTRATION	82561
AIR NEW SOURCE PERMITS	PERMIT	84802
PETROLEUM STORAGE TANK REGISTRATION	REGISTRATION	42177
WASTEWATER LICENSING	LICENSE	WQ0002296000
IHW CORRECTIVE ACTION	SOLID WASTE REGISTRATION # (SWR)	30459
INDUSTRIAL AND HAZARDOUS WASTE COMPLIANCE PLANS	PERMIT	50284
UNDERGROUND INJECTION CONTROL	PERMIT	5W2000017
UNDERGROUND INJECTION CONTROL	PERMIT	5X2600215
UNDERGROUND INJECTION CONTROL	PERMIT	5X2500106
STORMWATER	PERMIT	TXR05P506
SUPERFUND	ID NUMBER	SUP134

Location:	955 FM 2373, PANHANDLE, TX, 79068	Rating Date: September 01 07	Repeat Violator: NO
TCEQ Region:	REGION 01 - AMARILLO		
Date Compliance History Prepared:	May 19, 2008		
Agency Decision Requiring Compliance History:	Enforcement		
Compliance Period:	March 08, 2000 to May 19, 2008		

TCEQ Staff Member to Contact for Additional Information Regarding this Compliance History

Name: Michael Sunderlin Phone: (512) 239-4523

Site Compliance History Components

1. Has the site been in existence and/or operation for the full five year compliance period? Yes

2. Has there been a (known) change in ownership of the site during the compliance period?	Yes
3. If Yes, who is the current owner?	BWXT Pantex, LLC US Department of Energy Department of Energy Pantex Plant Babcock & Wilcox Technical Services Pantex, L.L.C
4. If Yes, who was/were the prior owner(s)?	US Department of Energy Site Services, Inc.
5. When did the change(s) in ownership occur?	08/19/2002 02/14/2007

Components (Multimedia) for the Site :

A. Final Enforcement Orders, court judgements, and consent decrees of the state of Texas and the federal government.

Effective Date: 07/06/2001 ADMINORDER 2000-0710-IHW-E

Classification: Moderate

Citation: 2D TWC Chapter 26, SubChapter A 26.039(b)
30 TAC Chapter 305, SubChapter F 305.125(9)
40 CFR Chapter 270, SubChapter I, PT 270, SubPT C 270.30(l)(6)

Rqmt Prov: V.D.1, V.E, V.I PERMIT

Description: Failed to notify the Executive Director within 24 hours of a spill, discharge, or noncompliance and failed to provide a written submission or report concerning a release of solid waste.

Classification: Moderate

Citation: 40 CFR Chapter 270, SubChapter I, PT 270, SubPT C 270.30(a)

Rqmt Prov: III.E.6.a.2.I PERMIT

Description: Failed to provide results of all analysis data for the Burning Grounds groundwater wells to the TNRCC within 90 days of a sampling event.

B. Any criminal convictions of the state of Texas and the federal government.

N/A

C. Chronic excessive emissions events.

N/A

D. The approval dates of investigations. (CCEDS Inv. Track. No.)

1	03/20/2000	(IE0001124002001
2	03/28/2000	(225243)
3	05/01/2000	(225244)
4	05/05/2000	(30030)
5	05/05/2000	(30029)
6	05/31/2000	(225248)
7	06/29/2000	(225252)
8	07/27/2000	(225256)
9	08/11/2000	(68193)
10	08/28/2000	(225259)
11	09/27/2000	(225262)
12	10/27/2000	(225265)
13	11/27/2000	(225269)
14	12/26/2000	(225273)
15	01/29/2001	(225277)
16	02/26/2001	(225237)
17	03/30/2001	(225240)
18	04/26/2001	(225245)
19	05/29/2001	(225249)
20	06/27/2001	(225253)
21	07/27/2001	(225257)
22	08/10/2001	(39651)
23	08/27/2001	(68194)
24	08/31/2001	(225260)
25	10/01/2001	(225263)
26	11/20/2001	(225266)
27	11/23/2001	(225270)
28	01/24/2002	(225278)

29	01/31/2002	(225274)
30	02/22/2002	(225238)
31	03/20/2002	(68195)
32	03/21/2002	(225241)
33	04/24/2002	(225246)
34	05/24/2002	(225250)
35	06/06/2002	(68196)
36	06/24/2002	(225254)
37	07/18/2002	(68197)
38	07/22/2002	(225258)
39	08/22/2002	(225261)
40	09/23/2002	(225264)
41	11/14/2002	(225267)
42	11/22/2002	(225271)
43	12/23/2002	(225275)
44	01/23/2003	(225279)
45	02/28/2003	(225239)
46	03/25/2003	(225242)
47	04/14/2003	(31695)
48	04/14/2003	(31703)
49	04/14/2003	(31708)
50	04/14/2003	(31701)
51	04/22/2003	(225247)
52	05/22/2003	(225251)
53	06/23/2003	(225255)
54	07/07/2003	(124242)
55	07/21/2003	(323512)
56	08/19/2003	(146826)
57	08/25/2003	(323514)
58	09/22/2003	(323516)
59	10/23/2003	(323518)
60	11/21/2003	(323519)
61	12/23/2003	(323520)
62	01/27/2004	(323521)
63	03/19/2004	(323502)
64	03/22/2004	(323505)
65	04/23/2004	(323506)
66	05/19/2004	(323508)
67	06/10/2004	(274117)
68	06/21/2004	(323510)
69	07/01/2004	(276045)
70	07/07/2004	(279099)
71	07/20/2004	(364691)
72	08/09/2004	(276965)
73	08/12/2004	(274610)
74	08/26/2004	(364692)
75	09/15/2004	(364693)
76	10/25/2004	(364694)
77	11/24/2004	(364695)
78	12/17/2004	(344632)
79	12/20/2004	(342996)
80	12/22/2004	(388880)
81	01/24/2005	(388881)
82	02/22/2005	(388878)
83	03/14/2005	(388879)
84	04/22/2005	(430627)
85	05/12/2005	(380827)
86	05/24/2005	(430628)
87	06/13/2005	(430629)
88	07/19/2005	(430630)
89	08/17/2005	(446761)
90	08/17/2005	(446762)
91	08/18/2005	(399918)
92	09/20/2005	(446763)
93	10/18/2005	(490485)
94	11/18/2005	(490486)
95	12/21/2005	(490487)
96	01/13/2006	(436548)

97	01/17/2006	(490488)
98	02/21/2006	(490483)
99	03/22/2006	(490484)
100	04/12/2006	(588019)
101	05/19/2006	(505343)
102	06/16/2006	(505344)
103	06/24/2006	(466187)
104	06/29/2006	(481007)
105	07/14/2006	(480886)
106	07/20/2006	(527623)
107	08/15/2006	(497091)
108	08/16/2006	(527624)
109	09/19/2006	(527625)
110	10/20/2006	(551307)
111	11/20/2006	(551308)
112	12/18/2006	(551309)
113	01/18/2007	(588023)
114	02/14/2007	(588017)
115	03/20/2007	(588018)
116	04/20/2007	(588020)
117	04/27/2007	(543027)
118	05/17/2007	(588021)
119	06/13/2007	(588022)
120	07/18/2007	(605298)
121	08/01/2007	(569882)
122	08/20/2007	(605299)
123	08/27/2007	(572905)
124	09/20/2007	(605300)
125	10/09/2007	(594613)
126	10/19/2007	(629071)
127	11/14/2007	(594637)
128	11/15/2007	(629072)
129	12/19/2007	(629073)

E. Written notices of violations (NOV). (CCEDS Inv. Track. No.)

Date: 03/31/2000 (225244)
Self Report? YES Classification: Moderate
Citation: 30 TAC Chapter 305, SubChapter F 305.125(1)
TWC Chapter 26 26.121(a)
Description: Failure to meet the limit for one or more permit parameter

Date: 04/30/2000 (225248)
Self Report? YES Classification: Moderate
Citation: 30 TAC Chapter 305, SubChapter F 305.125(1)
TWC Chapter 26 26.121(a)
Description: Failure to meet the limit for one or more permit parameter

Date: 05/31/2000 (225252)
Self Report? YES Classification: Moderate
Citation: 30 TAC Chapter 305, SubChapter F 305.125(1)
TWC Chapter 26 26.121(a)
Description: Failure to meet the limit for one or more permit parameter

Date: 06/30/2000 (225256)
Self Report? YES Classification: Moderate
Citation: 30 TAC Chapter 305, SubChapter F 305.125(1)
TWC Chapter 26 26.121(a)
Description: Failure to meet the limit for one or more permit parameter

Date: 07/31/2000 (225259)
Self Report? YES Classification: Moderate
Citation: 30 TAC Chapter 305, SubChapter F 305.125(1)
TWC Chapter 26 26.121(a)
Description: Failure to meet the limit for one or more permit parameter

Date: 10/31/2000 (225269)
Self Report? YES Classification: Moderate
Citation: 30 TAC Chapter 305, SubChapter F 305.125(1)
TWC Chapter 26 26.121(a)
Description: Failure to meet the limit for one or more permit parameter

Date: 02/28/2001 (225240)

Self Report? YES Classification: Moderate
Citation: 30 TAC Chapter 305, SubChapter F 305.125(1)
TWC Chapter 26 26.121(a)
Description: Failure to meet the limit for one or more permit parameter
Date: 03/31/2001 (225245)

Self Report? YES Classification: Moderate
Citation: 30 TAC Chapter 305, SubChapter F 305.125(1)
TWC Chapter 26 26.121(a)
Description: Failure to meet the limit for one or more permit parameter
Date: 04/30/2001 (225249)

Self Report? YES Classification: Moderate
Citation: 30 TAC Chapter 305, SubChapter F 305.125(1)
TWC Chapter 26 26.121(a)
Description: Failure to meet the limit for one or more permit parameter
Date: 05/31/2001 (225253)

Self Report? YES Classification: Moderate
Citation: 30 TAC Chapter 305, SubChapter F 305.125(1)
TWC Chapter 26 26.121(a)
Description: Failure to meet the limit for one or more permit parameter
Date: 07/31/2001 (225260)

Self Report? YES Classification: Moderate
Citation: 30 TAC Chapter 305, SubChapter F 305.125(1)
TWC Chapter 26 26.121(a)
Description: Failure to meet the limit for one or more permit parameter
Date: 08/31/2001 (225263)

Self Report? YES Classification: Moderate
Citation: 30 TAC Chapter 305, SubChapter F 305.125(1)
TWC Chapter 26 26.121(a)
Description: Failure to meet the limit for one or more permit parameter
Date: 09/30/2001 (225266)

Self Report? YES Classification: Moderate
Citation: 30 TAC Chapter 305, SubChapter F 305.125(1)
TWC Chapter 26 26.121(a)
Description: Failure to meet the limit for one or more permit parameter
Date: 10/31/2001 (225270)

Self Report? YES Classification: Moderate
Citation: 30 TAC Chapter 305, SubChapter F 305.125(1)
TWC Chapter 26 26.121(a)
Description: Failure to meet the limit for one or more permit parameter
Date: 12/31/2001 (225278)

Self Report? YES Classification: Moderate
Citation: 30 TAC Chapter 305, SubChapter F 305.125(1)
TWC Chapter 26 26.121(a)
Description: Failure to meet the limit for one or more permit parameter
Date: 04/30/2002 (225250)

Self Report? YES Classification: Moderate
Citation: 30 TAC Chapter 305, SubChapter F 305.125(1)
TWC Chapter 26 26.121(a)
Description: Failure to meet the limit for one or more permit parameter
Date: 05/31/2002 (225254)

Self Report? YES Classification: Moderate
Citation: 30 TAC Chapter 305, SubChapter F 305.125(1)
TWC Chapter 26 26.121(a)
Description: Failure to meet the limit for one or more permit parameter
Date: 08/31/2002 (225264)

Self Report? YES Classification: Moderate
Citation: 30 TAC Chapter 305, SubChapter F 305.125(1)
TWC Chapter 26 26.121(a)
Description: Failure to meet the limit for one or more permit parameter
Date: 10/31/2002 (225271)

Self Report? YES Classification: Moderate
Citation: 30 TAC Chapter 305, SubChapter F 305.125(1)
TWC Chapter 26 26.121(a)

Description: Failure to meet the limit for one or more permit parameter
Date: 02/28/2003 (225242)

Self Report? YES Classification: Moderate
Citation: 30 TAC Chapter 305, SubChapter F 305.125(1)
TWC Chapter 26 26.121(a)
Description: Failure to meet the limit for one or more permit parameter
Date: 04/14/2003 (31708)

Self Report? NO Classification: Moderate
Citation: 30 TAC Chapter 116, SubChapter B 116.115(c)
Description: The U.S. Department of Energy, National Nuclear Security Administration, BWXT Pantex Plant failed to comply with Permit no. 21233, Special Condition no. 8 B by not testing for tetrahydrofuran (THF) from the Dust Collector 3 Stack (EPN: PS3), as per Permit no. 21233, Sp. Cond. no. 8 B.
Date: 04/30/2003 (225251)

Self Report? YES Classification: Moderate
Citation: 30 TAC Chapter 305, SubChapter F 305.125(1)
TWC Chapter 26 26.121(a)
Description: Failure to meet the limit for one or more permit parameter
Date: 05/31/2003 (225255)

Self Report? YES Classification: Moderate
Citation: 30 TAC Chapter 305, SubChapter F 305.125(1)
TWC Chapter 26 26.121(a)
Description: Failure to meet the limit for one or more permit parameter
Date: 06/30/2003 (323512)

Self Report? YES Classification: Moderate
Citation: 30 TAC Chapter 305, SubChapter F 305.125(1)
TWC Chapter 26 26.121(a)
Description: Failure to meet the limit for one or more permit parameter
Date: 07/31/2003 (323514)

Self Report? YES Classification: Moderate
Citation: 30 TAC Chapter 305, SubChapter F 305.125(1)
TWC Chapter 26 26.121(a)
Description: Failure to meet the limit for one or more permit parameter
Date: 08/31/2003 (323516)

Self Report? YES Classification: Moderate
Citation: 30 TAC Chapter 305, SubChapter F 305.125(1)
TWC Chapter 26 26.121(a)
Description: Failure to meet the limit for one or more permit parameter
Date: 10/31/2003 (323519)

Self Report? YES Classification: Moderate
Citation: 30 TAC Chapter 305, SubChapter F 305.125(1)
TWC Chapter 26 26.121(a)
Description: Failure to meet the limit for one or more permit parameter
Date: 04/30/2004 (323508)

Self Report? YES Classification: Moderate
Citation: 30 TAC Chapter 305, SubChapter F 305.125(1)
TWC Chapter 26 26.121(a)
Description: Failure to meet the limit for one or more permit parameter
Date: 05/31/2004 (323510)

Self Report? YES Classification: Moderate
Citation: 30 TAC Chapter 305, SubChapter F 305.125(1)
TWC Chapter 26 26.121(a)
Description: Failure to meet the limit for one or more permit parameter
Date: 08/12/2004 (274610)

Self Report? NO Classification: Moderate
Citation: 30 TAC Chapter 305, SubChapter F 305.125(1)
Rqmt Prov: PERMIT WQ TPDES 02296
Description: Failure to meet permit effluent limitations.
Date: 08/31/2004 (364693)

Self Report? YES Classification: Moderate
Citation: 30 TAC Chapter 305, SubChapter F 305.125(1)
TWC Chapter 26 26.121(a)
Description: Failure to meet the limit for one or more permit parameter
Date: 11/30/2004 (388880)

Self Report? YES Classification: Moderate

Citation: 30 TAC Chapter 305, SubChapter F 305.125(1)
TWC Chapter 26 26.121(a)

Description: Failure to meet the limit for one or more permit parameter

Date: 01/13/2006 (436548)

Self Report? NO Classification: Moderate

Citation: 30 TAC Chapter 305, SubChapter F 305.125(4)
30 TAC Chapter 305, SubChapter F 305.125(5)
TWC Chapter 26 26.121
TWC Chapter 26 26.121(a)
TWC Chapter 26 26.121(a)(1)
TWC Chapter 26 26.121(a)(2)
TWC Chapter 26 26.121(a)(3)
TWC Chapter 26 26.121(b)
TWC Chapter 26 26.121(c)
TWC Chapter 26 26.121(d)
TWC Chapter 26 26.121(e)

Rqmt Prov: PERMIT VI. Standard Provisions

Description: Failure to prevent an unauthorized discharge from the chlorine contact chamber located at the wastewater treatment plant site.

Date: 08/15/2006 (497091)

Self Report? NO Classification: Moderate

Citation: 30 TAC Chapter 116, SubChapter B 116.110(a)

Description: Failed to permit emissions from a emission event that is not exempted due to human error, they are in violation of 30 TAC 116.110(a).

Date: 11/14/2007 (594637)

Self Report? NO Classification: Moderate

Citation: 30 TAC Chapter 305, SubChapter F 305.125(4)
30 TAC Chapter 305, SubChapter F 305.125(5)
TWC Chapter 26 26.121
TWC Chapter 26 26.121(a)
TWC Chapter 26 26.121(a)(1)
TWC Chapter 26 26.121(a)(2)
TWC Chapter 26 26.121(a)(3)
TWC Chapter 26 26.121(b)
TWC Chapter 26 26.121(c)
TWC Chapter 26 26.121(d)
TWC Chapter 26 26.121(e)

Rqmt Prov: PERMIT III., General Description, pg. 1

Description: Failure to prevent unauthorized discharges from the wastewater collection system.

F. Environmental audits.

N/A

G. Type of environmental management systems (EMSs).

N/A

H. Voluntary on-site compliance assessment dates.

N/A

I. Participation in a voluntary pollution reduction program.

Type	Tier	Certification Date
CLEAN TEXAS PROGRAM	PARTNERSHIP	04/12/2005
CLEAN TEXAS PROGRAM	PARTNER	04/12/2005
CLEAN TEXAS PROGRAM	PARTNER	04/12/2005

J. Early compliance.

N/A

Sites Outside of Texas

N/A

ATTACHMENT D

MAILING LIST
US DEPARTMENT OF ENERGY
DOCKET NO. 2008-0261-IWD; PERMIT NO. WQ0002296000

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